

BOARD OF REGISTERED NURSING

PO Box 944210, Sacramento, CA 94244-2100

P (916) 322-3350 F (916) 574-8637 | www.rn.ca.gov

Louise R. Bailey, MEd, RN, Executive Officer

**LEGISLATIVE
COMMITTEE MEETING**

AGENDA

**Hilton San Diego Mission Valley
901 Camino del Rio South
San Diego, CA 92108
(619) 543-9000**

October 12, 2011

Wednesday, October 12, 2011, 3:00-4:00 p.m.

1.0 Review and Approve Minutes:

- August 10, 2011

1.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

Assembly Bills

AB 1424

Senate Bills

SB 100

SB 541

SB 161

SB 747

SB 538

SB 943

1.2 Information Only: Federal Legislation of Interest to the Board

1.3 Public Comment for Items Not on the Agenda

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov, or send a written request to the Board of Registered Nursing at 1747 N. Market Blvd., Ste. 150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (916) 322-1700). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation.

Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DATE: August 10, 2011

TIME: 2:00 p.m. - 3:00 p.m.

LOCATION: Department of Consumer Affairs
Hearing Room S-102
1625 North Market Boulevard
Sacramento, California 95834

MEMBERS PRESENT: Erin Niemela
Douglas Hoffner
Kathrine Ware

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The meeting was called to order at 2:00 p.m. by Ms. Niemela.

11.0 Review and Approve Minutes:

- March 10, 2011
- May 18, 2011

The minutes of March 10, 2011, were approved.

The minutes of May 18, 2011, were approved with one correction.

11.1 Adopt/Modify Positions on Bills of Interest to the Board

AB 1424 Perea: Franchise Tax Board: delinquent tax debt
Committee Position: Oppose unless amended

SB 161 Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication
Committee Position: Oppose

SB 538 Price: Nursing
Committee Position: Continue support and sponsorship

SB 541 **Price: Regulatory boards: expert consultants**
Committee Position: Support

SB 747 **Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients**
Committee Position: Oppose

11.2 Information Only: Federal Legislation of Interest to the Board

11.3 Public Comment for Items Not on the Agenda
No comments were offered.

The meeting was adjourned at 3:00 p.m.

Submitted by: _____
Kay Weinkam, M.S., RN, CNS

Approved by: _____
Erin Niemela, Chair



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DATE: May 18, 2011

TIME: 3:30 p.m.- 4:30 p.m..

LOCATION: Doubletree Hotel
222 North Vineyard Avenue
Ontario, California 91764

MEMBERS PRESENT: Erin Niemela
Kathrine Ware

STAFF PRESENT: Louise Bailey, Executive Officer

The meeting was called to order at 3:30 p.m. by Erin Niemela

7.0 Review and Approve Minutes:

➤ March 10, 2011

The minutes were tabled until the next committee meeting for approval.

7.1 Adopt/Modify Positions on Bills of Interest to the Board

AB 661	Block: Public postsecondary education: San Diego Community College District: baccalaureate degree pilot program Committee Position: Watch
AB 888	Pan: Pupil health: School Medication Authorization task force Committee Position: ---
SB 161	Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication Committee Position: Oppose
SB 538	Price: Nursing Committee Position: ---
SB 541	Price: Regulatory boards: expert consultants Committee Position: ---

Committee Position: ---

SB 544

Price: Professions and Vocations: regulatory boards

Committee Position: ---

SB 747

Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients

Committee Position: Watch

The Committee Positions reflect previous action taken by the Committee. The members functioned as a subcommittee today and did not take action on any of these bills.

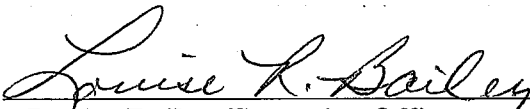
7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda

No comments were offered.

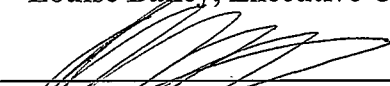
The meeting was adjourned at

Submitted by:



Louise Bailey, Executive Officer

Approved by:



Erin Niemela



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DATE: March 10, 2011
TIME: 2:30 p.m. – 3:30 p.m.
LOCATION: DCA Headquarters
1625 N. Market Boulevard
Hearing Room, S-102
Sacramento, California 95834

MEMBERS PRESENT: Richard Rice, Chair
Dian Harrison
Douglas Hoffner
Erin Niemela

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The meeting was called to order at 2:30 p.m. by the chairperson.

7.0 Review and Approve Minutes:

➤ January 5, 2011

The minutes of January 5, 2011, were approved.

7.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

AB 661 **Block: Public postsecondary education: San Diego Community College District: baccalaureate degree pilot program**
Committee Position: *Watch*

SB 161 **Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication**
Committee Position: *Oppose*

SB 747 **Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients**
Committee Position: *Watch*

7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda

The meeting was adjourned at 3:00 p.m.

Submitted by: K. A. Weinkam
Kay Weinkam, M.S., RN, CNS

Approved by: Louise R. Bailey for.
Richard L. Rice, Chair

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 1.1
DATE: October 12, 2011

ACTION REQUESTED: Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

REQUESTED BY: Richard Rice, Chairperson
Legislative Committee

BACKGROUND:	<u>Assembly Bills</u>	<u>Senate Bills</u>
	AB 1424	SB 100 SB 541
		SB 161 SB 747
		SB 538 SB 943

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATION, IF ANY: None

PERSON TO CONTACT: Kay Weinkam, NEC
and Legislative Liaison
(916) 574-7680

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Perea	BILL NUMBER:	AB 1424
SPONSOR:	Perea	BILL STATUS:	Governor
SUBJECT:	Franchise Tax Board: delinquent tax debt	DATE LAST AMENDED:	9/2/11

SUMMARY:

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

ANALYSIS:

This bill, among other provisions, would:

- Requires the State Board of Equalization and the Franchise Tax Board to each make available a list of the **500** largest tax delinquencies at least **twice** each calendar year.
- Require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and license number of any occupational or professional license held by the person or persons liable for payment of the tax, and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation.
- Require a person whose delinquency appeared on either list and whose name has been removed to comply with the terms of the arranged resolution, authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice.

- **Permit** a state governmental licensing entity that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies.
- Require those licensing entities to provide to the State Board of Equalization and the Franchise Tax Board the name and social security number or federal taxpayer identification number of each individual licensee of that entity, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board, and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.
- Require the State Board of Equalization and the Franchise Tax Board, if an individual licensee appears on either list of the 500 largest tax delinquencies, and the licensing entity has not made a decision regarding suspension or revocation of the license, to send a notice of suspension to the licensee.
- Provide for the license of a licensee who fails to satisfy the unpaid taxes by a certain date to be automatically suspended, and would require the State Board of Equalization or the Franchise Tax Board to mail a notice of suspension to the applicable state governmental licensing entity and to the licensee. The suspension would be canceled upon compliance with the tax obligation.
- Prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

Amended analysis as of 8/15/11:

This bill as amended would, among other things:

- Require the State Board of Equalization to make available on a quarterly basis its list of the 500 largest tax delinquencies.
- Require each state governmental licensing entity to update its records to reflect the suspension upon receipt of notice of suspension from the State Board of Equalization (BOE) or the Franchise Tax Board (FTB).
- Authorize the BOE and the FTB to disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies.

The provisions of the bill would become effective on or after January 1, 2012.

Amended analysis as of 8/18/11:

This bill as amended would, among other things:

- Require the state government licensing entity to collect social security numbers and federal taxpayer identification numbers of each individual applicant for purposes of matching those applicants' names with names on the lists provided by the DOE and FTB.
- Delete the provision for the state governmental licensing entity to decline to exercise authority provided by this law. Require the state governmental licensing entity to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies. Would delete the BOE or the FTB as the originator of the notice of suspension sent to the licensee.
- Requires the Department of Consumer Affairs to take appropriate action in the event that any of the boards, bureaus, or commissions within the agency fails to act.
- Mandate that the BOE and the FTB submit the respective lists to every state governmental licensing entity. Authorize the BOE and the FTB to disclose to state governmental licensing entities identifying information on persons whose names appear on the lists.
- Include sales or use tax, or a similar tax, as a tax debt which can be collected on behalf of other states or the IRS.

The provisions of the bill would become effective on or after July 1, 2012.

Amended analysis as of 8/31 and 9/2/11:

This bill, as amended, would:

- Require that a state governmental licensing entity that discloses on its Web site or in other publications that a licensee has had a license denied or suspended, or has been granted a temporary license, shall prominently disclose, in bold and adjacent to the information related to the status of the license, that the only reason action was taken was because the licensee failed to pay taxes.
- Provide that action taken under this law does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.
- Require that information related to the suspension or revocation of the applicant's or licensee's license be purged from the state governmental licensing entity's Web site or other publication within three business days upon release from the certified list.

BOARD POSITION: Oppose (9/14/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose unless amended
(8/10/11)

SUPPORT:

California Tax Reform Association
Western Center on Law and Poverty

OPPOSE:

California Association of Realtors
California Chapter of the American Fence Association
California Fence Contractors Association
Engineering Contractors Association
California Landscape Contractors Association
Marin Builders Association
Flasher Barricade Association

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE AUGUST 18, 2011

AMENDED IN SENATE AUGUST 15, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 7, 2011

AMENDED IN SENATE JUNE 6, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1424

Introduced by Assembly Member Perea

March 22, 2011

An act to amend Sections 31 and 476 of, and to add Section 494.5 to, the Business and Professions Code, to add Section 12419.13 to the Government Code, to add Section 10295.4 to the Public Contract Code, to amend Sections 7063, 19195, and 19533 of, to add Sections 6835, 7057, 7057.5, 19377.5, 19571, and 19572 to, to add Article 9 (commencing with Section 6850) to Chapter 6 of Part 1 of Division 2 of, and to add Article 7 (commencing with Section 19291) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to add Section 34623.1 to the Vehicle Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1424, as amended, Perea. Franchise Tax Board: delinquent tax debt.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency. Existing law requires every board, as defined, and the Department of Insurance, upon request of the Franchise Tax Board, to furnish to the Franchise Tax Board certain information with respect to every licensee.

This bill would require the State Board of Equalization, quarterly, and the Franchise Tax Board, at least twice each calendar year, to make available a list of the 500 largest tax delinquencies described above. This bill would require the Franchise Tax Board to include additional information on the list with respect to each delinquency, including the type, status, and licence number of any occupational or professional license held by the person or persons liable for payment of the tax and the names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. This bill would require a person whose delinquency appeared on either list and whose name has been removed, as provided, to comply with the terms of the arranged resolution, and would authorize the State Board of Equalization and the Franchise Tax Board, if the person fails to comply with the terms of the arranged resolution, to add the person's name to the list without providing prior written notice, as provided.

This bill would require a state governmental licensing entity, other than the Department of Motor Vehicles, *State Bar of California*, and *Alcoholic Beverage Control Board*, as provided, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, and refuse to issue a license if the licensee's name is included on either list of the 500 largest tax delinquencies described above. This bill would not include the Contractors' State License Board in the definition of "state governmental licensing entity." This bill would also require those licensing entities to collect the social security number or federal taxpayer identification number of each individual applicant of that entity for the purpose of matching those applicants to the names on the lists of the 500 largest tax delinquencies, and would require each application for a new license or renewal of a license to indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and

requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid. This bill would also authorize the State Board of Equalization and the Franchise Tax Board to disclose to state governmental licensing entities identifying information, *as defined*, of persons on the list of 500 largest tax delinquencies, as specified. This bill would authorize a motor carrier permit of a licensee whose name is on certified list of tax delinquencies to be suspended, as provided. The bill would require the State Board of Equalization and the Franchise Tax Board to meet certain requirements and would make related changes.

The bill would provide that the release or other use of information received by a state governmental licensing entity pursuant to these provisions, except as authorized, is punishable as a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would also prohibit a state agency from entering into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies described above.

Existing law authorizes the Franchise Tax Board to collect specified amounts for the Department of Industrial Relations and specified amounts imposed by a court pursuant to specified procedures.

This bill would authorize the State Board of Equalization and the Franchise Tax Board to enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing an income tax, or a tax measured by income, or a sales or use tax, or a similar tax, pursuant to specified procedures, provided that the Internal Revenue Service or that state has entered into an agreement to collect delinquent tax debts due to the State Board of Equalization or the Franchise Tax Board, and the agreements do not cause the net displacement of civil service employees, as specified. This bill would require the Controller, upon execution of a reciprocal agreement between the State Board of Equalization, the Franchise Tax Board, and any other state imposing a sales and use tax, a tax similar to a sales and use tax, an income tax, or tax measured by income, to offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity, as provided.

Existing law requires, in the event that the debtor has more than one debt being collected by the Franchise Tax Board and the amount

collected is insufficient to satisfy the total amount owed, the amount collected to be applied to specified priorities.

This bill would include specified tax delinquencies collected pursuant to this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31 of the Business and Professions Code
2 is amended to read:

3 31. (a) As used in this section, “board” means any entity listed
4 in Section 101, the entities referred to in Sections 1000 and 3600,
5 the State Bar, the Department of Real Estate, and any other state
6 agency that issues a license, certificate, or registration authorizing
7 a person to engage in a business or profession.

8 (b) Each applicant for the issuance or renewal of a license,
9 certificate, registration, or other means to engage in a business or
10 profession regulated by a board who is not in compliance with a
11 judgment or order for support shall be subject to Section 17520 of
12 the Family Code.

13 (c) “Compliance with a judgment or order for support” has the
14 meaning given in paragraph (4) of subdivision (a) of Section 17520
15 of the Family Code.

16 (d) Each licensee *or applicant* whose name appears on a list of
17 the 500 largest tax delinquencies pursuant to Section 7063 or 19195
18 of the Revenue and Taxation Code shall be subject to Section
19 494.5.

20 (e) Each application for a new license or renewal of a license
21 shall indicate on the application that the law allows the State Board
22 of Equalization and the Franchise Tax Board to share taxpayer
23 information with a board and requires the licensee to pay his or
24 her state tax obligation and that his or her license may be suspended
25 if the state tax obligation is not paid.

(f) For purposes of this section, “tax obligation” means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7285 7280), Part 10 (commencing with Section 17001), ~~and~~ *or* Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 476 of the Business and Professions Code is amended to read:

476. (a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

SEC. 3. Section 494.5 is added to the Business and Professions Code, to read:

~~494.5. (a) A state governmental licensing entity, other than the Department of Motor Vehicles, shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee’s name is included on a certified list. The Department of Motor Vehicles shall suspend a license if a licensee’s name is included on a certified list. Any reference in this section to the issuance, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.~~

494.5. (a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee’s name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee’s name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

1 (3) *The State Bar of California may recommend to refuse to*
2 *issue, reactivate, reinstate, or renew a license and may recommend*
3 *to suspend a license if a licensee's name is included on a certified*
4 *list. The word "may" shall be substituted for the word "shall"*
5 *relating to the issuance of a temporary license, refusal to issue,*
6 *reactivate, reinstate, renew, or suspend a license in this section*
7 *for licenses under the jurisdiction of the California Supreme Court.*

8 (4) *The Alcoholic Beverage Control Board may refuse to issue,*
9 *reactivate, reinstate, or renew a license, and may suspend a license,*
10 *if a licensee's name is included on a certified list.*

11 (b) For purposes of this section:

12 (1) "Certified list" means either *the* list provided by the State
13 Board of Equalization or the *list provided by the* Franchise Tax
14 Board of persons whose names appear on the lists of the 500 largest
15 tax delinquencies pursuant to Section 7063 or 19195 of the
16 Revenue and Taxation Code, *as applicable*.

17 (2) "License" includes a certificate, registration, or any other
18 authorization to engage in a profession or occupation issued by a
19 state governmental licensing entity. "License" includes a driver's
20 license issued pursuant to Chapter 1 (commencing with Section
21 12500) of Division 6 of the Vehicle Code. "License" excludes *a*
22 vehicle registration issued pursuant to Division 3 (commencing
23 with Section 4000) of the Vehicle Code.

24 (3) "Licensee" means an individual authorized by a license to
25 drive a motor vehicle or authorized by a license, certificate,
26 registration, or other authorization to engage in a profession or
27 occupation issued by a state governmental licensing entity.

28 (4) "State governmental licensing entity" means any entity listed
29 in Section 101, 1000, or 19420, the office of the Attorney General,
30 the Department of Insurance, the Department of Motor Vehicles,
31 the State Bar of California, the Department of Real Estate, and
32 any other state agency, board, or commission that issues a license,
33 certificate, or registration authorizing an individual to engage in
34 a profession or occupation, including any certificate, business or
35 occupational license, or permit or license issued by the Department
36 of Motor Vehicles or the Department of the California Highway
37 Patrol. "State governmental licensing entity" shall not include the
38 Contractors' State License Board.

39 (c) The State Board of Equalization and the Franchise Tax Board
40 shall each submit its respective certified list to every state

1 governmental licensing entity. The certified lists shall include the
2 name, social security number or taxpayer identification number,
3 and the last known address of the persons identified on the certified
4 lists.

5 (d) Notwithstanding any other law, each state governmental
6 licensing entity shall collect the social security number or the
7 federal taxpayer identification number from all applicants for the
8 purposes of matching the names of the certified lists provided by
9 the State Board of Equalization and the Franchise Tax Board to
10 applicants and licensees.

11 (e) (1) Each state governmental licensing entity shall determine
12 whether an applicant or licensee is on the most recent certified list
13 provided by the State Board of Equalization and the Franchise Tax
14 Board.

15 (2) If an applicant or licensee is on either of the certified lists,
16 the state governmental licensing entity shall immediately provide
17 a preliminary notice to the applicant or licensee of the entity's
18 intent to suspend or withhold issuance or renewal of the license.
19 The preliminary notice shall be delivered personally or by mail to
20 the applicant's or licensee's last known mailing address on file
21 with the state governmental licensing entity within 30 days of
22 receipt of the certified list. Service by mail shall be completed in
23 accordance with Section 1013 of the Code of Civil Procedure.

24 (A) The state governmental licensing entity shall issue a
25 temporary license valid for a period of 90 days to any applicant
26 whose name is on a certified list if the applicant is otherwise
27 eligible for a license.

28 (B) The 90-day time period for a temporary license shall not be
29 extended. Only one temporary license shall be issued during a
30 regular license term and the term of the temporary license shall
31 coincide with the first 90 days of the regular license term. A license
32 for the full term or the remainder of the license term may be issued
33 or renewed only upon compliance with this section.

34 (C) In the event that a license is suspended or an application for
35 a license or the renewal of a license is denied pursuant to this
36 section, any funds paid by the applicant or licensee shall not be
37 refunded by the state governmental licensing entity.

38 (f) (1) A state governmental licensing entity shall refuse to
39 issue or shall suspend a license pursuant to this section no sooner
40 than 90 days and no later than 120 days of the mailing of the

1 preliminary notice described in paragraph (2) of subdivision (e),
2 unless the state governmental licensing entity has received a release
3 pursuant to subdivision (h). The procedures in the administrative
4 adjudication provisions of the Administrative Procedure Act
5 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of Title
7 2 of the Government Code) shall not apply to the denial or
8 suspension of, or refusal to renew, a license or the issuance of a
9 temporary license pursuant to this section.

10 (2) Notwithstanding any other law, if a board, bureau, or
11 commission listed in Section 101, other than the Contractors' State
12 License Board, fails to take action in accordance with this section,
13 the Department of Consumer Affairs shall issue a temporary license
14 or suspend or refuse to issue, reactivate, reinstate, or renew a
15 license, as appropriate.

16 (g) Notices shall be developed by each state governmental
17 licensing entity. For an applicant or licensee on the State Board
18 of Equalization's certified list, the notice shall include the address
19 and telephone number of the State Board of Equalization, and shall
20 emphasize the necessity of obtaining a release from the State Board
21 of Equalization as a condition for the issuance, renewal, or
22 continued valid status of a license or licenses. For an applicant or
23 licensee on the Franchise Tax Board's certified list, the notice shall
24 include the address and telephone number of the Franchise Tax
25 Board, and shall emphasize the necessity of obtaining a release
26 from the Franchise Tax Board as a condition for the issuance,
27 renewal, or continued valid status of a license or licenses.

28 (1) The notice shall inform the applicant that the state
29 governmental licensing entity shall issue a temporary license, as
30 provided in subparagraph (A) of paragraph (2) of subdivision (e),
31 for 90 calendar days if the applicant is otherwise eligible and that
32 upon expiration of that time period, the license will be denied
33 unless the state governmental licensing entity has received a release
34 from the State Board of Equalization or the Franchise Tax Board,
35 whichever is applicable.

36 (2) The notice shall inform the licensee that any license
37 suspended under this section will remain suspended until the state
38 governmental licensing entity receives a release along with
39 applications and fees, if applicable, to reinstate the license.

(3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization ~~and~~ or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of his or her name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State

1 Board of Equalization or the Franchise Tax Board, whichever is
2 applicable, where the applicant or licensee is unable to pay any
3 part of the outstanding liability and the applicant or licensee is
4 unable to qualify for an installment payment arrangement as
5 provided for by Section 6832 or Section 19008 of the Revenue
6 and Taxation Code. In order to establish the existence of a financial
7 hardship, the applicant or licensee shall submit any information,
8 including information related to reasonable business and personal
9 expenses, requested by the State Board of Equalization or the
10 Franchise Tax Board, whichever is applicable, for purposes of
11 making that determination.

12 (i) An applicant or licensee is required to act with diligence in
13 responding to notices from the state governmental licensing entity
14 and the State Board of Equalization or the Franchise Tax Board
15 with the recognition that the temporary license will lapse or the
16 license suspension will go into effect after 90 days and that the
17 State Board of Equalization or the Franchise Tax Board must have
18 time to act within that period. An applicant's or licensee's delay
19 in acting, without good cause, which directly results in the inability
20 of the State Board of Equalization or the Franchise Tax Board,
21 whichever is applicable, to complete a review of the applicant's
22 or licensee's request for release shall not constitute the diligence
23 required under this section which would justify the issuance of a
24 release. An applicant or licensee shall have the burden of
25 establishing that he or she diligently responded to notices from the
26 state governmental licensing entity or the State Board of
27 Equalization or the Franchise Tax Board and that any delay was
28 not without good cause.

29 (j) The State Board of Equalization or the Franchise Tax Board
30 shall create release forms for use pursuant to this section. When
31 the applicant or licensee has complied with the tax obligation;
32 ~~either~~ by payment of the unpaid ~~taxes~~ *taxes*, or entry into an
33 installment payment agreement, *or establishing the existence of a*
34 *current financial hardship as defined in paragraph (3) of*
35 *subdivision (h)*, the State Board of Equalization or the Franchise
36 Tax Board, whichever is applicable, shall mail a release form to
37 the applicant or licensee and provide a release to the appropriate
38 state governmental licensing entity. Any state governmental
39 licensing entity that has received a release from the State Board
40 of Equalization and the Franchise Tax Board pursuant to this

1 subdivision shall process the release within five business days of
2 its receipt. If the State Board of Equalization or the Franchise Tax
3 Board determines subsequent to the issuance of a release that the
4 licensee has not complied with their installment payment
5 agreement, the State Board of Equalization or the Franchise Tax
6 Board, whichever is applicable, shall notify the state governmental
7 licensing entity and the licensee in a format prescribed by the State
8 Board of Equalization or the Franchise Tax Board, whichever is
9 applicable, that the licensee is not in compliance and the release
10 shall be rescinded. The State Board of Equalization and the
11 Franchise Tax Board may, when it is economically feasible for
12 the state governmental licensing entity to develop an automated
13 process for complying with this subdivision, notify the state
14 governmental licensing entity in a manner prescribed by the State
15 Board of Equalization or the Franchise Tax Board, whichever is
16 applicable, that the licensee has not complied with the installment
17 payment agreement. Upon receipt of this notice, the state
18 governmental licensing entity shall immediately notify the licensee
19 on a form prescribed by the state governmental licensing entity
20 that the licensee's license will be suspended on a specific date,
21 and this date shall be no longer than 30 days from the date the
22 form is mailed. The licensee shall be further notified that the license
23 will remain suspended until a new release is issued in accordance
24 with this subdivision.

25 (k) The State Board of Equalization and the Franchise Tax Board
26 may enter into interagency agreements with the state governmental
27 licensing entities necessary to implement this section.

28 (l) Notwithstanding any other law, a state governmental
29 licensing entity, with the approval of the appropriate department
30 director or governing body, may impose a fee on a licensee whose
31 license has been suspended pursuant to this section. The fee shall
32 not exceed the amount necessary for the state governmental
33 licensing entity to cover its costs in carrying out the provisions of
34 this section. Fees imposed pursuant to this section shall be
35 deposited in the fund in which other fees imposed by the state
36 governmental licensing entity are deposited and shall be available
37 to that entity upon appropriation in the annual Budget Act.

38 (m) The process described in subdivision (h) shall constitute
39 the sole administrative remedy for contesting the issuance of a

1 temporary license or the denial or suspension of a license under
2 this section.

3 (n) Any state governmental licensing entity receiving an inquiry
4 as to the licensed status of an applicant or licensee who has had a
5 license denied or suspended under this section or who has been
6 granted a temporary license under this section shall respond that
7 the license was denied or suspended or the temporary license was
8 issued only because the licensee appeared on a list of the 500
9 largest tax delinquencies pursuant to Section 7063 or 19195 of the
10 Revenue and Taxation Code. Information collected pursuant to
11 this section by any state agency, board, or department shall be
12 subject to the Information Practices Act of 1977 (Chapter 1
13 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
14 3 of the Civil Code). Any state governmental licensing entity that
15 discloses on its Internet Web site or other publication that the
16 licensee has had a license denied or suspended under this section
17 or has been granted a temporary license under this section shall
18 prominently disclose, in bold and adjacent to the information
19 regarding the status of the license, that the only reason the license
20 was denied, suspended, or temporarily issued is because the
21 licensee failed to pay taxes.

22 (o) Any rules and regulations issued pursuant to this section by
23 any state agency, board, or department may be adopted as
24 emergency regulations in accordance with the rulemaking
25 provisions of the Administrative Procedure Act (Chapter 3.5
26 (commencing with Section 11340) of Part 1 of Division 3 of Title
27 2 of the Government Code). The adoption of these regulations
28 shall be deemed an emergency and necessary for the immediate
29 preservation of the public peace, health, and safety, or general
30 welfare. The regulations shall become effective immediately upon
31 filing with the Secretary of State.

32 (p) The State Board of Equalization, the Franchise Tax Board,
33 and state governmental licensing entities, as appropriate, shall
34 adopt regulations as necessary to implement this section.

35 (q) (1) Neither the state governmental licensing entity, nor any
36 officer, employee, or agent, or former officer, employee, or agent
37 of a state governmental licensing entity, may disclose or use any
38 information obtained from the State Board of Equalization or the
39 Franchise Tax Board, pursuant to this section, except to inform
40 the public of the denial, refusal to renew, or suspension of a license

1 or the issuance of a temporary license pursuant to this section. The
2 release or other use of information received by a state governmental
3 licensing entity pursuant to this section, except as authorized by
4 this section, is punishable as a misdemeanor. This subdivision may
5 not be interpreted to prevent the State Bar of California from filing
6 a request with the Supreme Court of California to suspend a
7 member of the bar pursuant to this section.

8 (2) A suspension of, or refusal to renew, a license or issuance
9 of a temporary license pursuant to this section does not constitute
10 denial or discipline of a licensee for purposes of any reporting
11 requirements to the National Practitioner Data Bank and shall not
12 be reported to the National Practitioner Data Bank or the Healthcare
13 Integrity and Protection Data Bank.

14 (3) Upon release from the certified list, the suspension or
15 revocation of the applicant's or licensee's license shall be purged
16 from the state governmental licensing entity's Internet Web site
17 or other publication within three business days. *This paragraph*
18 *shall not apply to the State Bar of California.*

19 (r) If any provision of this section or the application thereof to
20 any person or circumstance is held invalid, that invalidity shall not
21 affect other provisions or applications of this section that can be
22 given effect without the invalid provision or application, and to
23 this end the provisions of this section are severable.

24 (s) All rights to review afforded by this section to an applicant
25 shall also be afforded to a licensee.

26 (t) Unless otherwise provided in this section, the policies,
27 practices, and procedures of a state governmental licensing entity
28 with respect to license suspensions under this section shall be the
29 same as those applicable with respect to suspensions pursuant to
30 Section 17520 of the Family Code.

31 (u) No provision of this section shall be interpreted to allow a
32 court to review and prevent the collection of taxes prior to the
33 payment of those taxes in violation of the California Constitution.

34 (v) This section shall apply to any licensee whose name appears
35 on a list of the 500 largest tax delinquencies pursuant to Section
36 7063 or 19195 of the Revenue and Taxation Code on or ~~after~~ *after* July
37 *after July 1, 2012.*

38 SEC. 4. Section 12419.13 is added to the Government Code,
39 to read:

12419.13. (a) (1) The Controller shall, upon execution of a reciprocal agreement between the State Board of Equalization or the Franchise Tax Board, and any other state imposing a sales and use tax, an income tax, or tax measured by income, offset any delinquent tax debt due to that other state from a person or entity, against any refund under the Sales and Use Tax Law, the Personal Income Tax Law, or the Corporation Tax Law owed to that person or entity.

(2) Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller.

(3) Payment of the offset amount shall occur only after other offset requests for debts owed by a person or entity to this state or the federal government have been satisfied in accordance with the priority established under Section 12419.3.

(b) The reciprocal agreement identified in subdivision (a) shall prescribe the manner in which the administrative costs of the Controller, the State Board of Equalization, and the Franchise Tax Board shall be reimbursed.

SEC. 5. Section 10295.4 is added to the Public Contract Code, to read:

10295.4. (a) Notwithstanding any other law, a state agency shall not enter into any contract for the acquisition of goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Any contract entered into in violation of this subdivision is void and unenforceable.

(b) This section shall apply to any contract executed on or after July 1, 2012.

SEC. 6. Section 6835 is added to the Revenue and Taxation Code, to read:

6835. (a) The board may enter into an agreement with the Internal Revenue Service or any other state imposing a sales and use tax, or a similar tax, for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under this part, provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision

1 (a) may, as part of the collection process, refer the tax debt for
2 litigation by its legal representatives in the name of the board.

3 (c) For purposes of this section, “displacement” includes layoff,
4 demotion, involuntary transfer to a new class, involuntary transfer
5 to a new location requiring a change of residence, and time base
6 reductions. “Displacement” does not include changes in shifts or
7 days off, nor does it include reassignment to any other position
8 within the same class and general location.

9 SEC. 7. Article 9 (commencing with Section 6850) is added
10 to Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation
11 Code, to read:

12
13 Article 9. Collection of Tax Debts Due to the Internal Revenue
14 Services or Other States
15

16 6850. (a) The board may enter into an agreement to collect
17 any delinquent tax debt due to the Internal Revenue Service or any
18 other state imposing a sales and use tax, or similar tax, if, pursuant
19 to Section 6835, the Internal Revenue Service or such a state has
20 entered into an agreement to collect delinquent tax debts due to
21 the board.

22 (b) Upon written notice to the debtor from the board, any amount
23 referred to the board under subdivision (a) shall be treated as final
24 and due and payable to the State of California, and shall be
25 collected from the debtor by the board in any manner authorized
26 under the law for collection of a delinquent sales and use tax
27 liability, including, but not limited to, the recording of a notice of
28 state tax lien under Article 2 (commencing with Section 7170) of
29 Chapter 14 of Division 7 of Title 1 of the Government Code, and
30 the issuance of an order and levy under Article 4 (commencing
31 with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part
32 2 of the Code of Civil Procedure in the manner provided for
33 earnings withholding orders for taxes.

34 (c) This part shall apply to amounts referred under this section
35 in the same manner and with the same force and effect and to the
36 full extent as if the language of those laws had been incorporated
37 in full into this section, except to the extent that any provision is
38 either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the board to administer this part.

(e) In no event shall a collection under this section be construed as a payment of sales and use taxes imposed under this part, or in accordance with Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251), of Division 2.

SEC. 8. Section 7057 is added to the Revenue and Taxation Code, to read:

7057. (a) The board may disclose to state governmental licensing entities identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 494.5 of the Business and Professions Code. *“Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.*

(b) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the board pursuant to this section, except to administer Section 494.5 of the Business and Professions Code or to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to Section 494.5 of the Business and Professions Code.

(c) For purposes of this section, state governmental licensing entity means a state governmental licensing entity as defined in Section 494.5 of the Business and Professions Code.

SEC. 9. Section 7057.5 is added to the Revenue and Taxation Code, to read:

7057.5. (a) The board may disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 10295.4 of the Public Contract Code. *“Identifying information” means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.*

(b) A state agency, and any officer, employee, or agent, or former officer, employee, or agent of a state agency, shall not

1 disclose or use any information obtained from the board, pursuant
2 to this section, except to administer Section 10295.4 of the Public
3 Contract Code.

4 SEC. 10. Section 7063 of the Revenue and Taxation Code is
5 amended to read:

6 7063. (a) Notwithstanding any other provision of law, the
7 board shall make available as a matter of public record each quarter
8 a list of the 500 largest tax delinquencies in excess of one hundred
9 thousand dollars (\$100,000) under this part. For purposes of
10 compiling the list, a tax delinquency means an amount owed to
11 the board which is all of the following:

12 (1) Based on a determination made under Article 2 (commencing
13 with Section 6481) or Article 3 (commencing with Section 6511)
14 of Chapter 5 deemed final pursuant to Article 5 (commencing with
15 Section 6561) of Chapter 5, or that is “due and payable” under
16 Article 4 (commencing with Section 6536) of Chapter 5, or
17 self-assessed by the taxpayer.

18 (2) Recorded as a notice of state tax lien pursuant to Chapter
19 14 (commencing with Section 7150) of Division 7 of Title 1 of
20 the Government Code, in any county recorder’s office in this state.

21 (3) For an amount of tax delinquent for more than 90 days.

22 (b) For purposes of the list, a tax delinquency does not include
23 any of the following and may not be included on the list:

24 (1) A delinquency that is under litigation in a court of law.

25 (2) A delinquency for which payment arrangements have been
26 agreed to by both the taxpayer and the board and the taxpayer is
27 in compliance with the arrangement.

28 (3) A delinquency for which the taxpayer has filed for
29 bankruptcy protection pursuant to Title 11 of the United States
30 Code.

31 (c) Each quarterly list shall, with respect to each delinquency,
32 include all the following:

33 (1) The name of the person or persons liable for payment of the
34 tax and that person’s or persons’ last known address.

35 (2) The amount of tax delinquency as shown on the notice or
36 notices of state tax lien and any applicable interest or penalties,
37 less any amounts paid.

38 (3) The earliest date that a notice of state tax lien was filed.

39 (4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies

1 without providing the prior written notice required by subdivision
2 (d).

3 SEC. 11. Section 19195 of the Revenue and Taxation Code is
4 amended to read:

5 19195. (a) Notwithstanding any other provision of law,
6 including Section 6254.21 of the Government Code, the Franchise
7 Tax Board shall make available as a matter of public record at
8 least twice each calendar year a list of the 500 largest tax
9 delinquencies in excess of one hundred thousand dollars (\$100,000)
10 under Part 10 and Part 11 of this division. For purposes of
11 compiling the list, a tax delinquency means the total amount owed
12 by a taxpayer to the State of California for which a notice of state
13 tax lien has been recorded in any county recorder's office in this
14 state, pursuant to Chapter 14 (commencing with Section 7150) of
15 Division 7 of Title 1 of the Government Code.

16 (b) For purposes of the list, a tax delinquency does not include
17 any of the following and may not be included on the list:

18 (1) A delinquency for which payment arrangements have been
19 agreed to by both the taxpayer and the Franchise Tax Board and
20 the taxpayer is in compliance with the arrangement.

21 (2) A delinquency for which the taxpayer has filed for
22 bankruptcy protection pursuant to Title 11 of the United States
23 Code.

24 (3) A delinquency for which the person or persons liable for the
25 tax have contacted the Franchise Tax Board and for which
26 resolution of the tax delinquency has been accepted by the
27 Franchise Tax Board.

28 (c) Each list shall, with respect to each delinquency, include all
29 the following:

30 (1) The name of the person or persons liable for payment of the
31 tax and that person's or persons' address.

32 (2) The amount of tax delinquency as shown on the notice or
33 notices of state tax lien and any applicable interest or penalties,
34 less any amounts paid.

35 (3) The earliest date that a notice of state tax lien was filed.

36 (4) The type of tax that is delinquent.

37 (5) The type, status, and license number of any occupational or
38 professional license held by the person or persons liable for
39 payment of the tax.

(6) The names and titles of the principal officers of the person liable for payment of the tax if that person is a limited liability company or corporation. The Franchise Tax Board shall refer to the limited liability company's or the corporation's Statement of Information filed with the Secretary of State or to the limited liability company's or the corporation's tax return filed pursuant to this part to determine the principal officers of the limited liability company or corporation. Principal officers appearing on a list solely pursuant to this paragraph shall not be subject to Section 494.5 of the Business and Professions Code, or Section 10295.4 of the Public Contract Code.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the Franchise Tax Board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the Franchise Tax Board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The list described in subdivision (a) shall include the following:

(1) The telephone number and address of the Franchise Tax Board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than five business days from the occurrence of any of the following, the Franchise Tax Board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the Franchise Tax Board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the Franchise Tax Board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the Franchise Tax Board has verified that a bankruptcy proceeding has been completed and

1 there are no assets available with which to pay the delinquent
2 amount or amounts.

3 (4) Tax delinquencies that the Franchise Tax Board has
4 determined to be uncollectible.

5 (g) A person whose delinquency appears on the list, and who
6 satisfies that delinquency in whole or in part, may request the
7 Franchise Tax Board to include in its list any payments that person
8 made to satisfy the delinquency. Upon receipt of that request, the
9 Franchise Tax Board shall include those payments on the list as
10 promptly as feasible.

11 (h) Notwithstanding subdivision (a), a person whose delinquency
12 appeared on the list and whose name has been removed pursuant
13 to paragraph (1) of subdivision (f) shall comply with the terms of
14 the arranged resolution. If the person fails to do so, the Franchise
15 Tax Board may add that person's name to the list of delinquencies
16 without providing the prior written notice otherwise required by
17 subdivision (d).

18 SEC. 12. Article 7 (commencing with Section 19291) is added
19 to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation
20 Code, to read:

21
22 Article 7. Collection of Tax Debts Due to the Internal Revenue
23 Service or Other States
24

25 19291. (a) The Franchise Tax Board may enter into an
26 agreement to collect any delinquent tax debt due to the Internal
27 Revenue Service or any other state imposing an income tax or tax
28 measured by income if, pursuant to Section 19377.5, the Internal
29 Revenue Service or that state has entered into an agreement to
30 collect delinquent tax debts due the Franchise Tax Board.

31 (b) Upon written notice to the debtor from the Franchise Tax
32 Board, any amount referred to the Franchise Tax Board under
33 subdivision (a) shall be treated as final and due and payable to the
34 State of California, and shall be collected from the debtor by the
35 Franchise Tax Board in any manner authorized under the law for
36 collection of a delinquent income tax liability, including, but not
37 limited to, the recording of a notice of state tax lien under Article
38 2 (commencing with Section 7170) of Chapter 14 of Division 7
39 of Title 1 of the Government Code, and the issuance of an order
40 and levy under Article 4 (commencing with Section 706.070) of

Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(c) Part 10 (commencing with Section 17001), this part, Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.

(d) The activities required to implement and administer this section shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(e) In no event shall a collection under this section be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 13. Section 19377.5 is added to the Revenue and Taxation Code, to read:

19377.5. (a) The Franchise Tax Board may enter into an agreement with the Internal Revenue Service or any other state imposing an income tax or tax measured by income for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with Section 23001), provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the Franchise Tax Board, the rate of payment and the manner in which compensation for services shall be paid.

(b) At the discretion of the Franchise Tax Board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision (a) may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the Franchise Tax Board.

(c) For purposes of this section, “displacement” includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. “Displacement” does not include changes in shifts or

1 days off, nor does it include reassignment to any other position
2 within the same class and general location.

3 SEC. 14. Section 19533 of the Revenue and Taxation Code is
4 amended to read:

5 19533. In the event the debtor has more than one debt being
6 collected by the Franchise Tax Board and the amount collected by
7 the Franchise Tax Board is insufficient to satisfy the total amount
8 owing, the amount collected shall be applied in the following
9 priority:

10 (a) Payment of any delinquencies transferred for collection
11 under Article 5 (commencing with Section 19270) of Chapter 5.

12 (b) Payment of any taxes, additions to tax, penalties, interest,
13 fees, or other amounts due and payable under Part 7.5 (commencing
14 with Section 13201), Part 10 (commencing with Section 17001),
15 Part 11 (commencing with Section 23001), or this part, and
16 amounts authorized to be collected under Section 19722.

17 (c) Payment of delinquent wages collected pursuant to the Labor
18 Code.

19 (d) Payment of delinquencies collected under Section 10878.

20 (e) Payment of any amounts due that are referred for collection
21 under Article 5.5 (commencing with Section 19280) of Chapter
22 5.

23 (f) Payment of any amounts that are referred for collection
24 pursuant to Section 62.9 of the Labor Code.

25 (g) Payment of delinquent penalties collected for the Department
26 of Industrial Relations pursuant to the Labor Code.

27 (h) Payment of delinquent fees collected for the Department of
28 Industrial Relations pursuant to the Labor Code.

29 (i) Payment of delinquencies referred by the Student Aid
30 Commission.

31 (j) Payment of any delinquencies referred for collection under
32 Article 7 (commencing with Section 19291) of Chapter 5.

33 (k) Notwithstanding the payment priority established by this
34 section, voluntary payments designated by the taxpayer as payment
35 for a personal income tax liability or as a payment on amounts
36 authorized to be collected under Section 19722, shall not be applied
37 pursuant to this priority, but shall instead be applied as designated.

38 SEC. 15. Section 19571 is added to the Revenue and Taxation
39 Code, to read:

1 19571. (a) The Franchise Tax Board may disclose to state
2 governmental licensing entities identifying information of persons
3 appearing on the list of 500 largest tax delinquencies pursuant to
4 Section 19195 for purposes of administering Section 494.5 of the
5 Business and Professions Code. *“Identifying information” means*
6 *the name, social security number or taxpayer identification number,*
7 *and the last known address of the persons appearing on the list of*
8 *the 500 largest tax delinquencies.*

9 (b) Neither the state governmental licensing entity, nor any
10 officer, employee, or agent, or former officer, employee, or agent
11 of a state governmental licensing entity, may disclose or use any
12 information obtained from the Franchise Tax Board pursuant to
13 this section, except to administer Section 494.5 of the Business
14 and Professions Code or to inform the public of the denial, refusal
15 to renew, or suspension of a license or the issuance of a temporary
16 license pursuant to Section 494.5 of the Business and Professions
17 Code.

18 (c) For purposes of this section, state governmental licensing
19 entity means a state governmental licensing entity as defined in
20 Section 494.5 of the Business and Professions Code.

21 SEC. 16. Section 19572 is added to the Revenue and Taxation
22 Code, to read:

23 19572. (a) The Franchise Tax Board may disclose to state
24 agencies identifying information of persons appearing on the list
25 of the 500 largest tax delinquencies pursuant to Section 19195 for
26 purposes of administering Section 10295.4 of the Public Contract
27 Code. *“Identifying information” means the name, social security*
28 *number or taxpayer identification number, and the last known*
29 *address of the persons appearing on the list of the 500 largest tax*
30 *delinquencies.*

31 (b) A state agency, and any officer, employee, or agent, or
32 former officer, employee, or agent of a state agency, shall not
33 disclose or use any information obtained from the Franchise Tax
34 Board, pursuant to this section, except to administer Section
35 10295.4 of Public Contract Code.

36 SEC. 17. Section 34623.1 is added to the Vehicle Code, to
37 read:

38 34623.1. The motor carrier permit of a licensee may be
39 suspended pursuant to Section 494.5 of the Business and
40 Professions Code if a licensee’s name is included on a certified

1 list of tax delinquencies provided by the State Board of
2 Equalization or the Franchise Tax Board pursuant to Section 7063
3 or Section 19195, respectively of the Revenue and Taxation Code.

4 SEC. 18. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this act or because costs that may be
9 incurred by a local agency or school district will be incurred
10 because this act creates a new crime or infraction, eliminates a
11 crime or infraction, or changes the penalty for a crime or infraction,
12 within the meaning of Section 17556 of the Government Code, or
13 changes the definition of a crime within the meaning of Section 6
14 of Article XIII B of the California Constitution.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 100
SPONSOR:	Price	BILL STATUS:	Governor
SUBJECT:	Healing Arts	DATE LAST AMENDED:	7/12/11

SUMMARY:

Existing law provides for the licensure and regulation of various healing arts practitioners and requires certain of those practitioners to use particular designations following their names in specified instances. Existing law also provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which they are licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor.

Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would add and amend sections of the Business and Professions Code and the Health and Safety Code, relating to healing arts.

ANALYSIS:

This bill would, among other things, require licensees of the Board to include as advertisements, certain words or designations following their names indicating the particular educational degree they hold or healing arts they practice. It would require a registered nurse to include the designation "RN" immediately following his or her name.

Additionally, this bill would require the Medical Board of California to adopt regulations by January 1, 2013, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures. However, the regulations would not apply to laser or intense pulse light devices approved by the Federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

Amended analysis of 4/25:

Deleted the requirements related to licensees including certain words or designations following their names indicating the particular educational degree they hold or healing arts they practice in advertising. Deleted requirement for a registered nurse to include the designation "RN" immediately following her or his name in advertising

Amended analysis of 5/3, 6/23, and 7/12:

Did not include provisions that would pertain to nursing.

BOARD POSITION: Watch (2/2/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY JULY 12, 2011

AMENDED IN ASSEMBLY JUNE 23, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 100

Introduced by Senator Price

January 11, 2011

An act to amend Section 2023.5 of the Business and Professions Code, and to amend Sections 1248, 1248.15, 1248.2, 1248.25, 1248.35, 1248.5, 1248.7, and 1248.85 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 100, as amended, Price. Healing arts.

(1) Existing law provides for the licensure and regulation of various healing arts practitioners by boards under the Department of Consumer Affairs. Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would require the board to adopt regulations by January 1, 2013, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures.

(2) Existing law requires the Medical Board of California, as successor to the Division of Licensing of the Medical Board of

California, to adopt standards for accreditation of outpatient settings, as defined, and, in approving accreditation agencies to perform this accreditation, to ensure that the certification program shall, at a minimum, include standards for specified aspects of the settings' operations. Existing law makes a willful violation of these and other provisions relating to outpatient settings a crime.

This bill would include, among those specified aspects, the submission for approval by an accreditation agency at the time of accreditation, a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery. This bill would, as part of the accreditation process, authorize the accrediting agency to conduct a reasonable investigation, as defined, of the prior history of the outpatient setting. The bill would also modify the definition of "outpatient setting" to include facilities that offer in vitro fertilization, as defined. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law also requires the Medical Board of California to obtain and maintain a list of all accredited, certified, and licensed outpatient settings, and to notify the public, upon inquiry, whether a setting is accredited, certified, or licensed, or whether the setting's accreditation, certification, or license has been revoked.

This bill would, instead, require the board to obtain and maintain the list for all accredited outpatient settings, and to notify the public, by placing the information on its Internet Web site, whether the setting is accredited or the setting's accreditation has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency.

Existing law requires accreditation of an outpatient setting to be denied if the setting does not meet specified standards. Existing law authorizes an outpatient setting to reapply for accreditation at any time after receiving notification of the denial.

This bill would require the accreditation agency to report within 3 business days to the Medical Board of California if the outpatient setting's certificate for accreditation has been denied. Because a willful violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would also apply the denial of accreditation, or the revocation or suspension of accreditation by one accrediting agency, to all other accrediting agencies.

Existing law authorizes the Medical Board of California, as successor to the Division of Medical Quality of the Medical Board of California,

or an accreditation agency to, upon reasonable prior notice and presentation of proper identification, enter and inspect any accredited outpatient setting to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of the specified law.

This bill would delete the notice and identification requirements. The bill would require that every outpatient setting that is accredited be inspected by the accreditation agency, as specified, and would specify that it may also be inspected by the board and the department, as specified. The bill would require the board to ensure that accreditation agencies inspect outpatient settings.

Existing law authorizes the Medical Board of California to evaluate the performance of an approved accreditation agency no less than every 3 years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the board.

This bill would make that evaluation mandatory.

Existing law authorizes the board or the local district attorney to bring an action to enjoin a violation or threatened violation of the licensing provisions for outpatient settings in the superior court in and for the county in which the violation occurred or is about to occur.

This bill would require the board to investigate all complaints concerning a violation of these provisions and, with respect to any complaints relating to a violation of a specified provision, or upon discovery that an outpatient setting is not in compliance with that specified provision, would require the board ~~or to investigate and, where appropriate, the board, through or in conjunction with~~ the local district attorney, to bring an action to enjoin the outpatient setting's operation, as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 2023.5 of the Business and Professions Code is amended to read:

2023.5. (a) The board, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

- (1) The appropriate level of physician supervision needed.
- (2) The appropriate level of training to ensure competency.
- (3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:
 - (A) Patient selection.
 - (B) Patient education, instruction, and informed consent.
 - (C) Use of topical agents.
 - (D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) On or before January 1, 2009, the board and the Board of Registered Nursing shall promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

(c) On or before January 1, 2013, the board shall adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations shall not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

(d) Nothing in this section shall be construed to modify the prohibition against the unlicensed practice of medicine.

SEC. 2. Section 1248 of the Health and Safety Code is amended to read:

1248. For purposes of this chapter, the following definitions shall apply:

1 (a) “Division” means the Medical Board of California. All
2 references in this chapter to the division, the Division of Licensing
3 of the Medical Board of California, or the Division of Medical
4 Quality shall be deemed to refer to the Medical Board of California
5 pursuant to Section 2002 of the Business and Professions Code.

6 (b) (1) “Outpatient setting” means any facility, clinic,
7 unlicensed clinic, center, office, or other setting that is not part of
8 a general acute care facility, as defined in Section 1250, and where
9 anesthesia, except local anesthesia or peripheral nerve blocks, or
10 both, is used in compliance with the community standard of
11 practice, in doses that, when administered have the probability of
12 placing a patient at risk for loss of the patient’s life-preserving
13 protective reflexes.

14 (2) “Outpatient setting” also means facilities that offer in vitro
15 fertilization, as defined in subdivision (b) of Section 1374.55.

16 (3) “Outpatient setting” does not include, among other settings,
17 any setting where anxiolytics and analgesics are administered,
18 when done so in compliance with the community standard of
19 practice, in doses that do not have the probability of placing the
20 patient at risk for loss of the patient’s life-preserving protective
21 reflexes.

22 (c) “Accreditation agency” means a public or private
23 organization that is approved to issue certificates of accreditation
24 to outpatient settings by the board pursuant to Sections 1248.15
25 and 1248.4.

26 SEC. 3. Section 1248.15 of the Health and Safety Code is
27 amended to read:

28 1248.15. (a) The board shall adopt standards for accreditation
29 and, in approving accreditation agencies to perform accreditation
30 of outpatient settings, shall ensure that the certification program
31 shall, at a minimum, include standards for the following aspects
32 of the settings’ operations:

33 (1) Outpatient setting allied health staff shall be licensed or
34 certified to the extent required by state or federal law.

35 (2) (A) Outpatient settings shall have a system for facility safety
36 and emergency training requirements.

37 (B) There shall be onsite equipment, medication, and trained
38 personnel to facilitate handling of services sought or provided and
39 to facilitate handling of any medical emergency that may arise in
40 connection with services sought or provided.

1 (C) In order for procedures to be performed in an outpatient
2 setting as defined in Section 1248, the outpatient setting shall do
3 one of the following:

4 (i) Have a written transfer agreement with a local accredited or
5 licensed acute care hospital, approved by the facility's medical
6 staff.

7 (ii) Permit surgery only by a licensee who has admitting
8 privileges at a local accredited or licensed acute care hospital, with
9 the exception that licensees who may be precluded from having
10 admitting privileges by their professional classification or other
11 administrative limitations, shall have a written transfer agreement
12 with licensees who have admitting privileges at local accredited
13 or licensed acute care hospitals.

14 (iii) Submit for approval by an accrediting agency a detailed
15 procedural plan for handling medical emergencies that shall be
16 reviewed at the time of accreditation. No reasonable plan shall be
17 disapproved by the accrediting agency.

18 (D) In addition to the requirements imposed in subparagraph
19 (C), the outpatient setting shall submit for approval by an
20 accreditation agency at the time of accreditation a detailed plan,
21 standardized procedures, and protocols to be followed in the event
22 of serious complications or side effects from surgery that would
23 place a patient at high risk for injury or harm or to govern
24 emergency and urgent care situations. The plan shall include, at a
25 minimum, that if a patient is being transferred to a local accredited
26 or licensed acute care hospital, the outpatient setting shall do all
27 of the following:

28 (i) Notify the individual designated by the patient to be notified
29 in case of an emergency.

30 (ii) Ensure that the mode of transfer is consistent with the
31 patient's medical condition.

32 (iii) Ensure that all relevant clinical information is documented
33 and accompanies the patient at the time of transfer.

34 (iv) Continue to provide appropriate care to the patient until the
35 transfer is effectuated.

36 (E) All physicians and surgeons transferring patients from an
37 outpatient setting shall agree to cooperate with the medical staff
38 peer review process on the transferred case, the results of which
39 shall be referred back to the outpatient setting, if deemed
40 appropriate by the medical staff peer review committee. If the

1 medical staff of the acute care facility determines that inappropriate
2 care was delivered at the outpatient setting, the acute care facility's
3 peer review outcome shall be reported, as appropriate, to the
4 accrediting body or in accordance with existing law.

5 (3) The outpatient setting shall permit surgery by a dentist acting
6 within his or her scope of practice under Chapter 4 (commencing
7 with Section 1600) of Division 2 of the Business and Professions
8 Code or physician and surgeon, osteopathic physician and surgeon,
9 or podiatrist acting within his or her scope of practice under
10 Chapter 5 (commencing with Section 2000) of Division 2 of the
11 Business and Professions Code or the Osteopathic Initiative Act.
12 The outpatient setting may, in its discretion, permit anesthesia
13 service by a certified registered nurse anesthetist acting within his
14 or her scope of practice under Article 7 (commencing with Section
15 2825) of Chapter 6 of Division 2 of the Business and Professions
16 Code.

17 (4) Outpatient settings shall have a system for maintaining
18 clinical records.

19 (5) Outpatient settings shall have a system for patient care and
20 monitoring procedures.

21 (6) (A) Outpatient settings shall have a system for quality
22 assessment and improvement.

23 (B) Members of the medical staff and other practitioners who
24 are granted clinical privileges shall be professionally qualified and
25 appropriately credentialed for the performance of privileges
26 granted. The outpatient setting shall grant privileges in accordance
27 with recommendations from qualified health professionals, and
28 credentialing standards established by the outpatient setting.

29 (C) Clinical privileges shall be periodically reappraised by the
30 outpatient setting. The scope of procedures performed in the
31 outpatient setting shall be periodically reviewed and amended as
32 appropriate.

33 (7) Outpatient settings regulated by this chapter that have
34 multiple service locations shall have all of the sites inspected.

35 (8) Outpatient settings shall post the certificate of accreditation
36 in a location readily visible to patients and staff.

37 (9) Outpatient settings shall post the name and telephone number
38 of the accrediting agency with instructions on the submission of
39 complaints in a location readily visible to patients and staff.

40 (10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the board to protect the public health and safety.

(d) No accreditation standard adopted or approved by the board, and no standard included in any certification program of any accreditation agency approved by the board, shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

(f) The board may adopt regulations it deems necessary to specify procedures that should be performed in an accredited outpatient setting for facilities or clinics that are outside the definition of outpatient setting as specified in Section 1248.

(g) As part of the accreditation process, the accrediting agency shall conduct a reasonable investigation of the prior history of the outpatient setting, including all licensed physicians and surgeons who have an ownership interest therein, to determine whether there have been any adverse accreditation decisions rendered against them. For the purposes of this section, “conducting a reasonable investigation” means querying the Medical Board of California and the Osteopathic Medical Board of California to ascertain if either the outpatient setting has, or, if its owners are licensed physicians and surgeons, if those physicians and surgeons have, been subject to an adverse accreditation decision.

1 (h) An outpatient setting shall be subject to the reporting
2 requirements in Section 1279.1 and the penalties for failure to
3 report specified in Section 1280.4.

4 SEC. 4. Section 1248.2 of the Health and Safety Code is
5 amended to read:

6 1248.2. (a) Any outpatient setting may apply to an
7 accreditation agency for a certificate of accreditation. Accreditation
8 shall be issued by the accreditation agency solely on the basis of
9 compliance with its standards as approved by the board under this
10 chapter.

11 (b) The board shall obtain and maintain a list of accredited
12 outpatient settings from the information provided by the
13 accreditation agencies approved by the board, and shall notify the
14 public, by placing the information on its Internet Web site, whether
15 an outpatient setting is accredited or the setting's accreditation has
16 been revoked, suspended, or placed on probation, or the setting
17 has received a reprimand by the accreditation agency.

18 (c) The list of outpatient settings shall include all of the
19 following:

20 (1) Name, address, and telephone number of any owners, and
21 their medical license numbers.

22 (2) Name and address of the facility.

23 (3) The name and telephone number of the accreditation agency.

24 (4) The effective and expiration dates of the accreditation.

25 (d) Accrediting agencies approved by the board shall notify the
26 board and update the board on all outpatient settings that are
27 accredited.

28 SEC. 5. Section 1248.25 of the Health and Safety Code is
29 amended to read:

30 1248.25. If an outpatient setting does not meet the standards
31 approved by the board, accreditation shall be denied by the
32 accreditation agency, which shall provide the outpatient setting
33 notification of the reasons for the denial. An outpatient setting may
34 reapply for accreditation at any time after receiving notification
35 of the denial. The accreditation agency shall report within three
36 business days to the board if the outpatient setting's certificate for
37 accreditation has been denied.

38 SEC. 6. Section 1248.35 of the Health and Safety Code is
39 amended to read:

1 1248.35. (a) Every outpatient setting which is accredited shall
2 be inspected by the accreditation agency and may also be inspected
3 by the Medical Board of California. The Medical Board of
4 California shall ensure that accreditation agencies inspect outpatient
5 settings.

6 (b) Unless otherwise specified, the following requirements apply
7 to inspections described in subdivision (a).

8 (1) The frequency of inspection shall depend upon the type and
9 complexity of the outpatient setting to be inspected.

10 (2) Inspections shall be conducted no less often than once every
11 three years by the accreditation agency and as often as necessary
12 by the Medical Board of California to ensure the quality of care
13 provided.

14 (3) The Medical Board of California or the accreditation agency
15 may enter and inspect any outpatient setting that is accredited by
16 an accreditation agency at any reasonable time to ensure
17 compliance with, or investigate an alleged violation of, any
18 standard of the accreditation agency or any provision of this
19 chapter.

20 (c) If an accreditation agency determines, as a result of its
21 inspection, that an outpatient setting is not in compliance with the
22 standards under which it was approved, the accreditation agency
23 may do any of the following:

24 (1) Require correction of any identified deficiencies within a
25 set timeframe. Failure to comply shall result in the accrediting
26 agency issuing a reprimand or suspending or revoking the
27 outpatient setting's accreditation.

28 (2) Issue a reprimand.

29 (3) Place the outpatient setting on probation, during which time
30 the setting shall successfully institute and complete a plan of
31 correction, approved by the board or the accreditation agency, to
32 correct the deficiencies.

33 (4) Suspend or revoke the outpatient setting's certification of
34 accreditation.

35 (d) (1) Except as is otherwise provided in this subdivision,
36 before suspending or revoking a certificate of accreditation under
37 this chapter, the accreditation agency shall provide the outpatient
38 setting with notice of any deficiencies and the outpatient setting
39 shall agree with the accreditation agency on a plan of correction
40 that shall give the outpatient setting reasonable time to supply

1 information demonstrating compliance with the standards of the
2 accreditation agency in compliance with this chapter, as well as
3 the opportunity for a hearing on the matter upon the request of the
4 outpatient setting. During the allotted time to correct the
5 deficiencies, the plan of correction, which includes the deficiencies,
6 shall be conspicuously posted by the outpatient setting in a location
7 accessible to public view. Within 10 days after the adoption of the
8 plan of correction, the accrediting agency shall send a list of
9 deficiencies and the corrective action to be taken to the board. The
10 accreditation agency may immediately suspend the certificate of
11 accreditation before providing notice and an opportunity to be
12 heard, but only when failure to take the action may result in
13 imminent danger to the health of an individual. In such cases, the
14 accreditation agency shall provide subsequent notice and an
15 opportunity to be heard.

16 (2) If an outpatient setting does not comply with a corrective
17 action within a timeframe specified by the accrediting agency, the
18 accrediting agency shall issue a reprimand, and may either place
19 the outpatient setting on probation or suspend or revoke the
20 accreditation of the outpatient setting, and shall notify the board
21 of its action. This section shall not be deemed to prohibit an
22 outpatient setting that is unable to correct the deficiencies, as
23 specified in the plan of correction, for reasons beyond its control,
24 from voluntarily surrendering its accreditation prior to initiation
25 of any suspension or revocation proceeding.

26 (e) The accreditation agency shall, within 24 hours, report to
27 the board if the outpatient setting has been issued a reprimand or
28 if the outpatient setting's certification of accreditation has been
29 suspended or revoked or if the outpatient setting has been placed
30 on probation.

31 (f) The accreditation agency, upon receipt of a complaint from
32 the board that an outpatient setting poses an immediate risk to
33 public safety, shall inspect the outpatient setting and report its
34 findings of inspection to the board within five business days. If an
35 accreditation agency receives any other complaint from the board,
36 it shall investigate the outpatient setting and report its findings of
37 investigation to the board within 30 days.

38 (g) Reports on the results of any inspection shall be kept on file
39 with the board and the accreditation agency along with the plan
40 of correction and the comments of the outpatient setting. The

1 inspection report may include a recommendation for reinspection.
2 All final inspection reports, which include the lists of deficiencies,
3 plans of correction or requirements for improvements and
4 correction, and corrective action completed, shall be public records
5 open to public inspection.

6 (h) If one accrediting agency denies accreditation, or revokes
7 or suspends the accreditation of an outpatient setting, this action
8 shall apply to all other accrediting agencies. An outpatient setting
9 that is denied accreditation is permitted to reapply for accreditation
10 with the same accrediting agency. The outpatient setting also may
11 apply for accreditation from another accrediting agency, but only
12 if it discloses the full accreditation report of the accrediting agency
13 that denied accreditation. Any outpatient setting that has been
14 denied accreditation shall disclose the accreditation report to any
15 other accrediting agency to which it submits an application. The
16 new accrediting agency shall ensure that all deficiencies have been
17 corrected and conduct a new onsite inspection consistent with the
18 standards specified in this chapter.

19 (i) If an outpatient setting's certification of accreditation has
20 been suspended or revoked, or if the accreditation has been denied,
21 the accreditation agency shall do all of the following:

22 (1) Notify the board of the action.

23 (2) Send a notification letter to the outpatient setting of the
24 action. The notification letter shall state that the setting is no longer
25 allowed to perform procedures that require outpatient setting
26 accreditation.

27 (3) Require the outpatient setting to remove its accreditation
28 certification and to post the notification letter in a conspicuous
29 location, accessible to public view.

30 (j) The board may take any appropriate action it deems necessary
31 pursuant to Section 1248.7 if an outpatient setting's certification
32 of accreditation has been suspended or revoked, or if accreditation
33 has been denied.

34 SEC. 7. Section 1248.5 of the Health and Safety Code is
35 amended to read:

36 1248.5. The board shall evaluate the performance of an
37 approved accreditation agency no less than every three years, or
38 in response to complaints against an agency, or complaints against
39 one or more outpatient settings accreditation by an agency that

1 indicates noncompliance by the agency with the standards approved
2 by the board.

3 SEC. 8. Section 1248.7 of the Health and Safety Code is
4 amended to read:

5 1248.7. (a) The board shall investigate all complaints
6 concerning a violation of this chapter. With respect to any
7 complaints relating to a violation of Section 1248.1, or upon
8 discovery that an outpatient setting is not in compliance with
9 Section 1248.1, the board~~—or shall investigate and, where~~
10 *appropriate, the board, through or in conjunction with* the local
11 district attorney, shall bring an action to enjoin the outpatient
12 setting's operation. The board or the local district attorney may
13 bring an action to enjoin a violation or threatened violation of any
14 other provision of this chapter in the superior court in and for the
15 county in which the violation occurred or is about to occur. Any
16 proceeding under this section shall conform to the requirements
17 of Chapter 3 (commencing with Section 525) of Title 7 of Part 2
18 of the Code of Civil Procedure, except that the Division of Medical
19 Quality shall not be required to allege facts necessary to show or
20 tending to show lack of adequate remedy at law or irreparable
21 damage or loss.

22 (b) With respect to any and all actions brought pursuant to this
23 section alleging an actual or threatened violation of any
24 requirement of this chapter, the court shall, if it finds the allegations
25 to be true, issue an order enjoining the person or facility from
26 continuing the violation. For purposes of Section 1248.1, if an
27 outpatient setting is operating without a certificate of accreditation,
28 this shall be prima facie evidence that a violation of Section 1248.1
29 has occurred and additional proof shall not be necessary to enjoin
30 the outpatient setting's operation.

31 SEC. 9. Section 1248.85 of the Health and Safety Code is
32 amended to read:

33 1248.85. This chapter shall not preclude an approved
34 accreditation agency from adopting additional standards consistent
35 with Section 1248.15, establishing procedures for the conduct of
36 onsite inspections, selecting onsite inspectors to perform
37 accreditation onsite inspections, or establishing and collecting
38 reasonable fees for the conduct of accreditation onsite inspections.

39 SEC. 10. No reimbursement is required by this act pursuant
40 to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Huff	BILL NUMBER:	SB 161
SPONSOR:	Orange County Office of Education	BILL STATUS:	Governor
SUBJECT:	Schools: Emergency Medical Assistance: administration of epilepsy medication	DATE LAST AMENDED:	8/26/11

SUMMARY:

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. This bill would add and repeal a section of the Education Code relating to pupil health.

ANALYSIS:

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request.

The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available.

The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. It would require that the training be conducted by one or more of the following: a physician, a credentialed school nurse, a registered nurse or a credentialed public health nurse.

The bill would repeal these provisions on January 1, 2017.

Amended analysis as of 3/09/11:

This bill amendment would change the authorization for a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a

credentialed school nurse or other licensed nurse onsite at the school. The emergency medical assistance to pupils with epilepsy suffering from seizures would be provided in accordance with **performance guidelines** instead of **standards**. It would provide for the guidelines to be developed in cooperation with the State Department of Education, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. The provision allowing the State Department of Public Health to approve performance standards would be deleted. Also, the physician assistant would be added to the list of persons who could conduct the training.

This amendment would also require the health care practitioner to include, in a written statement, the detailed information about seizure symptoms, including frequency, type, or length of seizures that identify when the administration of Diastat becomes necessary.

During the 2009-2010 Legislative Session, the Board followed SB1051 that had similar provisions as SB161. The Board took an Oppose position and the bill was held in committee.

Amended analysis as of 4/25/11:

This bill amendment would permit the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication. Before a training program could be placed on the clearinghouse of best practices, it would have to be approved by the Professional Advisory Board of the Epilepsy Foundations of Greater Los Angeles, San Diego County, and Northern California, in consultation with the Department.

This amendment also replaces the word "Diastat" with "emergency antiseizure medication" throughout the bill. It defines "emergency antiseizure medication" as diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials.

This amendment would also permit Licensed Vocational Nurses to be involved in the health care needs of children in schools.

Amended analysis as of 5/31/11:

This bill amendment authorizes the State Department of Public Health in consultation with the State Department of Education to develop the guidelines for the training and supervision of school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures. It provides that the electronic notice sent to staff requesting volunteers shall be the only means by which a school solicits volunteers.

Amended analysis as of 7/13/11:

This bill amendment, among other things, authorizes the State Department of Education in consultation with the State Department of Public Health to develop the guidelines for training. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012.

Amended analysis as of 8/26/11:

This bill would allow a school district, county office of education, or charter school to elect to participate in a program to provide nonmedical school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school or charter school, emergency medical assistance to pupils with epilepsy suffering from seizures. The training would be in accordance with guidelines for training and supervision developed by the State Department of Education in consultation with the State Department of Public Health.

BOARD POSITION: Oppose (4/13/11; 9/14/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (3/10/11)
(8/10/11)

SUPPORT:

Association of Regional Center Agencies
The California Association of Joint Powers Authorities (If Amended)
California Association of School Business Officials
California Association of Suburban School Districts
California School Boards Association
Democrats for Education Reform
Disability Rights California
Epilepsy Foundation, California
Health Officers Association of California
Humboldt County Office of Education
Kern County Superintendent of Schools
Los Angeles County Office of Education
Los Angeles Unified School district
Orange County Department of Education
Riverside County School Superintendents' Association
Riverside Unified School District
Saddleback Valley Unified School District
San Bernardino County District Advocates for Better Schools
Small School Districts' Association
35 individuals

OPPOSE:

American Nurses Association-California
California Labor Federation
The California Federation of Teachers
California Association for Nurse Practitioners
California Nurses Association
California School Employees Association
California School Nurses Organization
California School Employees Association
California Teachers Association

Laborers International Union of North America, Local 777

Service Employees International Union-Nurses

Alliance of California

United Nurses Associations of CA-Union of Health Care Professionals

United Teachers Los Angeles

AMENDED IN ASSEMBLY AUGUST 26, 2011

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district, *county office of education, or charter school* to participate in a program to provide nonmedical school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse

onsite at the school *or charter school*, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by the State Department of Education in consultation with the State Department of Public Health. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed an emergency antiseizure medication by the pupil's health care provider, to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer the emergency antiseizure medication, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school district, *county office of education*, *or charter school* that elects to train school employees to ensure that the school *or charter school* distributes an electronic notice, as specified, to all staff regarding the request. The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions. The bill would make various legislative findings and declarations, and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) All individuals with exceptional needs have a right to
- 4 participate in a free appropriate public education, and that special
- 5 instruction and services for these individuals are needed in order
- 6 to ensure they have the right to an appropriate educational
- 7 opportunity to meet their unique needs in compliance with the
- 8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
- 9 1400 et seq.).
- 10 (2) The safety and welfare of a pupil with epilepsy is
- 11 compromised without immediate access to an emergency
- 12 antiseizure medication and, therefore, clarification is needed to
- 13 ensure that nonmedical school staff, who have volunteered and

1 have been trained in its correct administration, may administer an
2 emergency antiseizure medication.

3 (3) As used in this section, “immediate access” means the time
4 period that the pupil’s health care provider states that an antiseizure
5 medication must be administered, provided that it is within the
6 timeframe that a licensed medical person or paramedic can
7 reasonably be expected to respond and be available.

8 (b) It is the intent of the Legislature that individuals with
9 exceptional needs and children with disabilities under the federal
10 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
11 et seq.), the federal Individuals with Disabilities Education Act
12 (20 U.S.C. Sec. 1400 et seq.), and Section 504 of the federal
13 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) shall have a right
14 to an appropriate educational opportunity to meet their unique
15 needs, and that children suffering from seizures due to epilepsy
16 have the right to appropriate programs and services that are
17 designed to meet their unique needs. In order to meet that goal, it
18 is the intent of the Legislature that licensed health care
19 professionals train and supervise employees of school districts ~~and~~
20 ~~county offices of education~~, *county offices of education*, and
21 *charter schools* to administer an emergency antiseizure medication
22 to children with epilepsy in the public schools. The American
23 Academy of Pediatrics and the Epilepsy Foundation of America
24 support training of school employees to administer an emergency
25 antiseizure medication and believe that an emergency antiseizure
26 medication may be safely and effectively administered by trained
27 school employees. The Legislature further finds and declares that,
28 in the absence of a credentialed school nurse or other licensed
29 nurse onsite at the school, it is in the best interest of the health and
30 safety of children to allow trained school employees to administer
31 an emergency antiseizure medication to pupils in public schools.

32 SEC. 2. Section 49414.7 is added to the Education Code, to
33 read:

34 49414.7. (a) It is the intent of the Legislature that, whenever
35 possible, an emergency antiseizure medication should be
36 administered by a school nurse or licensed vocational nurse who
37 has been trained in its administration.

38 (b) Notwithstanding Sections 2052 and 2732 of the Business
39 and Professions Code, in the absence of a credentialed school nurse
40 or other licensed nurse onsite at the school, ~~a school district or~~

1 *charter school, a school district, county office of education, or*
2 *charter school* may elect to participate in a program, pursuant to
3 this section, to allow nonmedical employees to volunteer to provide
4 medical assistance to pupils with epilepsy suffering from seizures,
5 upon request by a parent or guardian pursuant to subdivision (c).
6 If the school district, *county office of education, or charter school*
7 elects to participate in a program pursuant to this section, the school
8 district, *county office of education, or charter school* shall provide
9 school employees; who volunteer pursuant to this section; with
10 voluntary emergency medical training, that is consistent with the
11 training guidelines established pursuant to subdivision (m), to
12 provide emergency medical assistance to pupils with epilepsy
13 suffering from seizures. A school employee with voluntary
14 emergency medical training shall provide this emergency medical
15 assistance using ~~a training plan~~ *guidelines* approved on the
16 department's Internet Web site pursuant to subdivision (m), and
17 the performance instructions set forth by the licensed health care
18 provider of the pupil. A school employee who does not volunteer
19 or who has not been trained pursuant to subdivision (m) shall not
20 be required to provide emergency medical assistance pursuant to
21 this section.

22 (c) If a pupil with epilepsy has been prescribed an emergency
23 antiseizure medication by his or her health care provider, the
24 pupil's parent or guardian may request the pupil's school to have
25 one or more of its employees receive training pursuant to this
26 section in the administration of an emergency antiseizure
27 medication in the event that the pupil suffers a seizure when a
28 nurse is not available.

29 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
30 1973, as amended, (29 U.S.C. Sec. 794), and the federal Individuals
31 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), upon
32 receipt of the parent's or guardian's request pursuant to subdivision
33 (c), the school *or charter school* shall notify the parent or guardian
34 that his or her child may qualify for services or accommodations
35 under the Section 504 plan or an individualized education program,
36 assist the parent or guardian with the exploration of that option,
37 and encourage the parent or guardian to adopt that option if it is
38 determined that the child is eligible for a Section 504 plan or an
39 individualized education program.

(e) The school *or charter school* may ask the parent or guardian to sign a notice verifying that the parent or guardian was given information about Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and that the parent or guardian understands that it is his or her right to request a Section 504 plan or an individualized education program at any time.

(f) If the parent or guardian does not choose to have the pupil assessed for a Section 504 plan or an individualized education program, the school *or charter school* may create an individualized health plan, seizure action plan, or other appropriate health plan designed to acknowledge and prepare for the child's health care needs in school. The plan may include the involvement of trained volunteer school employees or a licensed vocational nurse.

(g) In training employees pursuant to this section, the school district, *county office of education, or charter school* shall ensure the following:

(1) A volunteer receives training from a licensed health care professional regarding the administration of an emergency antiseizure medication. A staff member who has completed training shall, if he or she has not administered an emergency antiseizure medication within the prior two years and there is a pupil enrolled in the school who may need the administration of an antiseizure medication, attend a new training program to retain the ability to administer an emergency antiseizure medication.

(2) Any agreement by an employee to administer an emergency antiseizure medication is voluntary, and an employee of the school *or charter school* ~~or school district~~ *an employee of the school district or county office of education, or the charter school administrator;* shall not directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce any staff member who does not choose to volunteer, including, but not limited to, direct contact with the employee.

(3) Any employee who volunteers pursuant to this section may rescind his or her offer to administer an emergency antiseizure medication up to three days after the completion of the training. After that time, a volunteer may rescind his or her offer to administer an emergency antiseizure medication with a two-week

1 notice, or until a new individual health plan or Section 504 plan
2 has been developed for an affected pupil, whichever is less.

3 (4) The school *or charter school* shall distribute an electronic
4 notice no more than twice per school year per child to all staff that
5 states the following information in bold print:

6 (A) A description of the volunteer request, stating that the
7 request is for volunteers to administer an emergency antiseizure
8 medication to a pupil experiencing a severe epileptic seizure, in
9 the absence of a school nurse, and that this emergency antiseizure
10 medication is an FDA-approved, predosed, rectally administered
11 gel that reduces the severity of epileptic seizures.

12 (B) A description of the training that the volunteer will receive
13 pursuant to paragraph (1).

14 (C) A description of the voluntary nature of the volunteer
15 program, which includes the information described in paragraph
16 (2).

17 (D) The volunteer rescission timelines described in paragraph
18 (3).

19 (5) The electronic notice described in paragraph (4) shall be the
20 only means by which a school *or charter school* solicits volunteers.

21 (h) An employee who volunteers pursuant to this section shall
22 not be required to administer an emergency antiseizure medication
23 until completion of the training program adopted by the school
24 district, *county office of education, or charter school* and
25 documentation of completion is recorded in his or her personnel
26 file.

27 (i) If a school district, *county office of education, or charter*
28 *school* elects to participate pursuant to this section, the school
29 district, *county office of education, or charter school* shall ensure
30 that each employee who volunteers under this section will be
31 provided defense and indemnification by the school district, *county*
32 *office of education, or charter school* for any and all civil liability,
33 in accordance with, but not limited to, that provided in Division
34 3.6 (commencing with Section 810) of Title 1 of the Government
35 Code. This information shall be reduced to writing, provided to
36 the volunteer, and retained in the volunteer's personnel file.

37 (j) If there are no volunteers, then the school *or charter school*
38 shall renotify the pupil's parent or guardian of the option to be
39 assessed for services and accommodations guaranteed under
40 Section 504 of the federal Rehabilitation Act of 1973 and the

1 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
2 1400 et seq.).

3 (k) A school district, *county office of education, or charter*
4 *school* that elects to participate pursuant to this section shall have
5 in place a school district, *county office of education, or charter*
6 *school* plan that shall include, but not be limited to, all of the
7 following:

8 (1) Identification of existing licensed staff within the district or
9 region who could be trained in the administration of an emergency
10 antiseizure medication and could be available to respond to an
11 emergency need to administer an emergency antiseizure
12 medication. The school district *or charter school* shall consult with
13 the county office of education to obtain this information.

14 (2) Identification of pupils who may require the administration
15 of an emergency antiseizure medication.

16 (3) Written authorization from the parent or guardian for a
17 nonmedical school employee to administer an emergency
18 antiseizure medication.

19 (4) The requirement that the parent or guardian notify the school
20 *or charter school* if the pupil has had an emergency antiseizure
21 medication administered within the past four hours on a schoolday.

22 (5) Notification of the parent or guardian, by the school *or*
23 *charter school* administrator or, if the administrator is not available,
24 by another school staff member, that an emergency antiseizure
25 medication has been administered.

26 (6) A written statement from the pupil's health care practitioner
27 that shall include, but not be limited to, all of the following:

28 (A) The pupil's name.

29 (B) The name and purpose of the medication.

30 (C) The prescribed dosage.

31 (D) Detailed seizure symptoms, including frequency, type, or
32 length of seizures that identify when the administration of an
33 emergency antiseizure medication becomes necessary.

34 (E) The method of administration.

35 (F) The frequency with which the medication may be
36 administered.

37 (G) The circumstances under which the medication may be
38 administered.

1 (H) Any potential adverse responses by the pupil and
2 recommended mitigation actions, including when to call emergency
3 services.

4 (I) A protocol for observing the pupil after a seizure, including,
5 but not limited to, whether the pupil should rest in the school office,
6 whether the pupil may return to class, and the length of time the
7 pupil should be under direct observation.

8 (J) Following a seizure, the pupil's parent and guardian and the
9 school nurse shall be contacted by the school *or charter school*
10 administrator or, if the administrator is not available, by another
11 school staff member to continue the observation plan as established
12 in subparagraph (I).

13 (l) A school district, *county office of education, or charter school*
14 that elects to allow volunteers to administer an emergency
15 antiseizure medication shall compensate a volunteer, in accordance
16 with that employee volunteer's pay scale pursuant to Section
17 45128, when the administration of an emergency antiseizure
18 medication and subsequent monitoring of a pupil requires a
19 volunteer to work beyond his or her normally scheduled hours.

20 (m) (1) The department, in consultation with the State
21 Department of Public Health, shall develop guidelines for the
22 training and supervision of school *and charter school* employees
23 in providing emergency medical assistance to pupils with epilepsy
24 suffering from seizures and shall post this information on the
25 department's Internet Web site by July 1, 2012. The guidelines
26 may be developed in cooperation with interested organizations.
27 Upon development of the guidelines, the department shall approve
28 the guidelines for distribution and shall make those guidelines
29 available upon request.

30 (2) The department shall include, on its Internet Web site, a
31 clearinghouse for best practices in training nonmedical personnel
32 to administer an emergency antiseizure medication to pupils.

33 (3) Training established pursuant to this subdivision shall
34 include, but not be limited to, all of the following:

35 (A) Recognition and treatment of different types of seizures.

36 (B) Administration of an emergency antiseizure medication.

37 (C) Basic emergency followup procedures, including, but not
38 limited to, a requirement for the school *or charter school*
39 administrator or, if the administrator is not available, another school
40 staff member to call the emergency 911 telephone number and to

1 contact the pupil's parent or guardian. The requirement for the
2 school *or charter school* administrator or other school staff member
3 to call the emergency 911 telephone number shall not require a
4 pupil to be transported to an emergency room.

5 (D) Techniques and procedures to ensure pupil privacy.

6 (4) Any written materials used in the training shall be retained
7 by the school *or charter school*.

8 (5) Training established pursuant to this subdivision shall be
9 conducted by one or more of the following:

10 (A) A physician and surgeon.

11 (B) A physician assistant.

12 (C) A credentialed school nurse.

13 (D) A registered nurse.

14 (E) A certificated public health nurse.

15 (6) Training provided in accordance with the manufacturer's
16 instructions, the pupil's health care provider's instructions, and
17 guidelines established pursuant to this section shall be deemed
18 adequate training for purposes of this section.

19 (n) (1) The school *or charter school* administrator or, if the
20 administrator is not available, another school staff member shall
21 notify the credentialed school nurse assigned to the school district,
22 *county office of education, or charter school* if an employee at the
23 schoolsite administers an emergency antiseizure medication
24 pursuant to this section.

25 (2) If a credentialed school nurse is not assigned to the school
26 district, *county office of education, or charter school*, the school
27 *or charter school* administrator or, if the administrator is not
28 available, another school staff member shall notify the
29 superintendent of the school district, or his or her designee, *the*
30 *county superintendent of schools, or his or her designee, or the*
31 *charter school administrator, or his or her designee, as*
32 *appropriate*, if an employee at the schoolsite administers an
33 emergency antiseizure medication pursuant to this section.

34 (3) A school *or charter school* shall retain all records relating
35 to the administration of an emergency antiseizure medication while
36 a pupil is under the supervision of school staff.

37 (o) The pupil's parent or guardian shall provide all materials
38 necessary to administer an emergency antiseizure medication,
39 including the information described in paragraph (6) of subdivision

1 (k). A school *or charter school* shall not be responsible for
2 providing any of the necessary materials.

3 (p) For purposes of this section, the following definitions apply:

4 (1) An “emergency antiseizure medication” means diazepam
5 rectal gel and emergency medications approved by the federal
6 Food and Drug Administration for patients with epilepsy for the
7 management of seizures by persons without the medical credentials
8 listed in paragraph (5) of subdivision (m).

9 (2) “Emergency medical assistance” means the administration
10 of an emergency antiseizure medication to a pupil suffering from
11 an epileptic seizure.

12 (q) This section shall remain in effect only until January 1, 2017,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2017, deletes or extends that date.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 538
SPONSOR:	Board of Registered Nursing	BILL STATUS:	Governor
SUBJECT:	Nursing (Sunset Bill)	DATE LAST AMENDED:	8/15/11

SUMMARY:

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

ANALYSIS:

This bill would extend the operations of the Board of Registered Nursing until January 1, 2016, and, as of that date, the board would be subject to review by the appropriate policy committees of the Legislature.

Amended analysis of 4/25/11:

This bill amendment authorizes the Board of Registered Nursing to employ investigators and peace officers to provide investigative services necessary to meet their public protection mandate.

Additionally, this bill amendment requires the board, upon the Legislature's request, to fund an audit of the board's diversion program conducted by the Bureau of State Audits.

This bill amendment provides that a school of nursing that is not an institution of higher education or affiliated with an institution of higher education be subject to the requirements set forth in the Private Postsecondary Education Act of 2009.

This bill amendment requires all approved institutions of higher education and schools to remit specified fees for deposit into the board's fund. The schedule of fees is:

**\$5,000 for an approval to operate;
\$3,500 for the renewal fee for the institution; and
\$500 as a processing fee for authorization of a substantive change to an
approval to operate.**

Additionally, the bill would impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into its fund.

This bill amendment authorizes the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill provides that it would be unprofessional conduct for any registered nurse to violate that provision.

Finally, this bill amendment prohibits the transfer of a loan to the General Fund if the transfer will interfere with the board's ability to fulfill their statutory mandate.

Amended analysis of 5/10/11:

This amendment removed the provision that would have required the Bureau of State Audits to audit the Board's diversion program upon a specified request by the Legislature.

Amended analysis of 5/17/11:

This bill amendment would delete the provisions requiring a school of nursing not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees. It would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements of the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees.

This bill amendment requires the board, for these schools of nursing, to have a memorandum of understanding with the Bureau for Postsecondary Education to ensure compliance with the provisions of Title 3 of the Education Code.

Amended analysis of 5/31/11:

This bill amendment removed the prohibition on transferring funds to the General Fund as a loan under circumstances in which the General Fund is or will be exhausted.

Amended analysis of 6/27/11:

This bill amendment would require meetings of the board to be held in the northern and southern parts of the state. The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education.

Amended analysis of 8/15/11:

This bill amendment would specify that the term "approved school of nursing" includes an approved nursing program. The bill deletes the imposition of an annual fee that would be deposited into the Private Postsecondary and Vocational Education Administration Fund.

BOARD POSITION: Support (4/13/11; 9/14/11)

Board voted to sponsor SB 538 (6/15/11; 9/14/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Continue support and sponsorship (8/10/11)

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 17, 2011

AMENDED IN SENATE MAY 10, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 538

Introduced by Senator Price

February 17, 2011

An act to amend Sections 160, 2701, 2708, 2709, 2786, and 2798 of, and to add Sections 2786.2 and 2786.5 to, the Business and Professions Code, and to amend Section 830.3 of the Penal Code, relating to nursing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Price. Nursing.

Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

Investigators of the Division of Investigation and of the Medical Board of California and the Dental Board of California have the authority of peace officers. Those entities are also authorized to employ individuals who are not peace officers to provide investigative services.

This bill would extend the application of those provisions to the Board of Registered Nursing. The bill would make conforming changes to related provisions.

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of these provisions until January 1, 2016, and would specify that the board is subject to review by the appropriate policy committees of the Legislature. The bill would require meetings of the board to be held in the northern and southern parts of the state *California*.

Existing law *defines the term “approved school of nursing”* and requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would delete the provisions requiring an agreement and would instead provide that a school of nursing that is not an institution of higher education or that is affiliated with an institution of higher education, and that is subject to the requirements set forth in the California Private Postsecondary Education Act of 2009, requires board approval to grant nursing degrees. The bill would require new nursing schools seeking board approval to be recognized or approved by an accrediting agency recognized by the United States Department of Education. *The bill would specify that the term “approved school of nursing” includes an approved nursing program.* The bill would subject all ~~nursing~~ *approved schools of nursing* to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. ~~The bill would also impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into the Private Postsecondary and Vocational Education Administration Fund.~~ Because

the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 160 of the Business and Professions Code
2 is amended to read:

3 160. (a) The Chief and, designated investigators of the Division
4 of Investigation of the department, designated investigators of the
5 Medical Board of California, designated investigators of the Dental
6 Board of California, and designated investigators of the Board of
7 Registered Nursing have the authority of peace officers while
8 engaged in exercising the powers granted or performing the duties
9 imposed upon them or the division in investigating the laws
10 administered by the various boards comprising the department or
11 commencing directly or indirectly any criminal prosecution arising
12 from any investigation conducted under these laws. All persons
13 herein referred to shall be deemed to be acting within the scope
14 of employment with respect to all acts and matters set forth in this
15 section.

16 (b) The Division of Investigation of the department, the Medical
17 Board of California, the Dental Board of California, and the Board
18 of Registered Nursing may employ individuals who are not peace
19 officers to provide investigative services.

20 SEC. 2. Section 2701 of the Business and Professions Code is
21 amended to read:

22 2701. (a) There is in the Department of Consumer Affairs the
23 Board of Registered Nursing consisting of nine members.

24 (b) Within the meaning of this chapter, board, or the board,
25 refers to the Board of Registered Nursing. Any reference in state
26 law to the Board of Nurse Examiners of the State of California or

1 California Board of Nursing Education and Nurse Registration
2 shall be construed to refer to the Board of Registered Nursing.

3 (c) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2016, deletes or extends that date.
6 Notwithstanding any other provision of law, the repeal of this
7 section renders the board subject to review by the appropriate
8 policy committees of the Legislature.

9 SEC. 3. Section 2708 of the Business and Professions Code is
10 amended to read:

11 2708. (a) The board shall appoint an executive officer who
12 shall perform the duties delegated by the board and who shall be
13 responsible to it for the accomplishment of those duties.

14 (b) The executive officer shall be a nurse currently licensed
15 under this chapter and shall possess other qualifications as
16 determined by the board.

17 (c) The executive officer shall not be a member of the board.

18 (d) This section shall remain in effect only until January 1, 2016,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2016, deletes or extends that date.

21 SEC. 4. Section 2709 of the Business and Professions Code is
22 amended to read:

23 2709. The board for the purpose of transacting its business
24 shall meet at least once every three months, at times and places it
25 designates by resolution. Meetings shall be held in ~~the northern~~
26 ~~and southern parts of the state; and southern California.~~

27 SEC. 5. Section 2786 of the Business and Professions Code is
28 amended to read:

29 2786. (a) An approved school of nursing, *or an approved*
30 *nursing program*, is one that has been approved by the board, gives
31 the course of instruction approved by the board, covering not less
32 than two academic years, is affiliated or conducted in connection
33 with one or more hospitals, and is an institution of higher
34 education. For purposes of this section, “institution of higher
35 education” includes, but is not limited to, community colleges
36 offering an associate of arts or associate of science degree, ~~or an~~
37 ~~entry-level master’s degree~~, and private postsecondary institutions
38 offering an associate of arts, associate of science, or baccalaureate
39 degree *or an entry-level master’s degree* and not subject to the
40 California Private Postsecondary Education Act of 2009 (Chapter

1 8 (commencing with Section 94800) of Part 59 of Division 10 of
2 Title 3 of the Education Code).

3 (b) A school of nursing that is not an institution of higher
4 education or that is affiliated with an institution of higher education
5 as required by the board, and that is subject to the California Private
6 Postsecondary Education Act of 2009, Chapter 8 (commencing
7 with Section 94800) of Part 59 of Division 10 of Title 3 of the
8 Education Code, shall be approved by the board to grant an
9 associate of arts or associate of science degree to individuals who
10 graduate from the school of nursing or to grant a baccalaureate
11 degree in nursing with successful completion of an additional
12 course of study as approved by the board and the institution
13 involved.

14 (c) If an institution of higher education, an affiliated institution,
15 or an institution subject to the California Private Postsecondary
16 Education Act of 2009 (Chapter 8 (commencing with Section
17 94800) of Part 59 of Division 10 of Title 3 of the Education Code),
18 applies for approval of a new school of nursing, the school of
19 nursing shall be required to be recognized or approved by an
20 accrediting agency recognized by the United States Department
21 of Education.

22 (d) The board shall determine by regulation the required subjects
23 of instruction to be completed in an approved school of nursing
24 for licensure as a registered nurse and shall include the minimum
25 units of theory and clinical experience necessary to achieve
26 essential clinical competency at the entry level of the registered
27 nurse. The board's standards shall be designed to require all schools
28 to provide clinical instruction in all phases of the educational
29 process.

30 (e) The board shall perform or cause to be performed an analysis
31 of the practice of the registered nurse no less than every five years.
32 Results of the analysis shall be utilized to assist in the
33 determination of the required subjects of instruction, validation of
34 the licensing examination, and assessment of the current practice
35 of nursing.

36 SEC. 6. Section 2786.2 is added to the Business and Professions
37 Code, to read:

38 2786.2. All private postsecondary schools of nursing approved
39 by the board pursuant to subdivision (b) of Section 2786 shall
40 comply with Article 8 (commencing with Section 94897) to Article

1 16 (commencing with Section 94928), inclusive, of, and shall be
2 subject to Article 18 (commencing with Section 94932) of, Chapter
3 8 of Part 59 of Division 10 of Title 3 of the Education Code. The
4 board shall have a memorandum of understanding with the Bureau
5 for Postsecondary Education to ensure compliance with these
6 provisions, including the handling of student complaints regarding
7 these approved schools of nursing.

8 SEC. 7. Section 2786.5 is added to the Business and Professions
9 Code, to read:

10 2786.5. (a) An institution of higher education or a private
11 postsecondary school of nursing approved by the board pursuant
12 to subdivision (b) of Section 2786 shall remit to the board for
13 deposit in the Board of Registered Nursing Fund the following
14 fees, in accordance with the following schedule:

15 (1) The fee for approval of a school of nursing shall be five
16 thousand dollars (\$5,000).

17 (2) The fee for continuing approval of a new nursing program
18 shall be three thousand five hundred dollars (\$3,500).

19 (3) The processing fee for authorization of a substantive change
20 to an approval of a school of nursing shall be five hundred dollars
21 (\$500).

22 ~~(b) In addition to any fees paid to the board pursuant to~~
23 ~~paragraphs (1) to (3), inclusive, each school that is approved to~~
24 ~~operate pursuant to subdivision (b) of Section 2786 shall remit an~~
25 ~~annual institutional fee to the Bureau for Private Postsecondary~~
26 ~~Education, in an amount equal to three-quarters of 1 percent of the~~
27 ~~school's annual revenues derived from students in California, but~~
28 ~~not exceeding a total of twenty-five thousand dollars (\$25,000)~~
29 ~~annually, to be deposited in the Private Postsecondary and~~
30 ~~Vocational Education Administration Fund.~~

31 (c)

32 (b) If the board determines that the annual cost of providing
33 oversight and review of a school of nursing, as required by this
34 article, is less than the amount of any fees required to be paid by
35 that institution pursuant to this article, the board may decrease the
36 fees applicable to that institution to an amount that is proportional
37 to the board's costs associated with that institution.

38 SEC. 8. Section 2798 of the Business and Professions Code is
39 amended to read:

1 2798. (a) It is unlawful for anyone to conduct a school of
2 nursing unless the school has been approved by the board.

3 (b) If the board has a reasonable belief, either by complaint or
4 otherwise, that a school is allowing students to apply for its nursing
5 program and that nursing program does not have the approval of
6 the board, the board shall immediately order the school to cease
7 and desist from offering students the ability to enroll in its nursing
8 program. The board shall also notify the Attorney General's office
9 that the school is offering students the ability to enroll in a nursing
10 program that does not have the approval of the board.

11 (c) It shall be unprofessional conduct for any registered nurse
12 to violate or attempt to violate, either directly or indirectly, or to
13 assist or abet the violation of, this section.

14 (d) This section is not applicable to schools conducted under
15 Section 2789 of this chapter.

16 SEC. 9. Section 830.3 of the Penal Code is amended to read:

17 830.3. The following persons are peace officers whose authority
18 extends to any place in the state for the purpose of performing
19 their primary duty or when making an arrest pursuant to Section
20 836 as to any public offense with respect to which there is
21 immediate danger to person or property, or of the escape of the
22 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
23 the Government Code. These peace officers may carry firearms
24 only if authorized and under those terms and conditions as specified
25 by their employing agencies:

26 (a) Persons employed by the Division of Investigation of the
27 Department of Consumer Affairs and investigators of the Medical
28 Board of California, the Board of Dental Examiners, and the Board
29 of Registered Nursing who are designated by the Director of
30 Consumer Affairs, provided that the primary duty of these peace
31 officers shall be the enforcement of the law as that duty is set forth
32 in Section 160 of the Business and Professions Code.

33 (b) Voluntary fire wardens designated by the Director of
34 Forestry and Fire Protection pursuant to Section 4156 of the Public
35 Resources Code, provided that the primary duty of these peace
36 officers shall be the enforcement of the law as that duty is set forth
37 in Section 4156 of that code.

38 (c) Employees of the Department of Motor Vehicles designated
39 in Section 1655 of the Vehicle Code, provided that the primary

1 duty of these peace officers shall be the enforcement of the law as
2 that duty is set forth in Section 1655 of that code.

3 (d) Investigators of the California Horse Racing Board
4 designated by the board, provided that the primary duty of these
5 peace officers shall be the enforcement of Chapter 4 (commencing
6 with Section 19400) of Division 8 of the Business and Professions
7 Code and Chapter 10 (commencing with Section 330) of Title 9
8 of Part 1 of this code.

9 (e) The State Fire Marshal and assistant or deputy state fire
10 marshals appointed pursuant to Section 13103 of the Health and
11 Safety Code, provided that the primary duty of these peace officers
12 shall be the enforcement of the law as that duty is set forth in
13 Section 13104 of that code.

14 (f) Inspectors of the food and drug section designated by the
15 chief pursuant to subdivision (a) of Section 106500 of the Health
16 and Safety Code, provided that the primary duty of these peace
17 officers shall be the enforcement of the law as that duty is set forth
18 in Section 106500 of that code.

19 (g) All investigators of the Division of Labor Standards
20 Enforcement designated by the Labor Commissioner, provided
21 that the primary duty of these peace officers shall be the
22 enforcement of the law as prescribed in Section 95 of the Labor
23 Code.

24 (h) All investigators of the State Departments of Health Care
25 Services, Public Health, Social Services, Mental Health, and
26 Alcohol and Drug Programs, the Department of Toxic Substances
27 Control, the Office of Statewide Health Planning and Development,
28 and the Public Employees' Retirement System, provided that the
29 primary duty of these peace officers shall be the enforcement of
30 the law relating to the duties of his or her department or office.
31 Notwithstanding any other provision of law, investigators of the
32 Public Employees' Retirement System shall not carry firearms.

33 (i) The Chief of the Bureau of Fraudulent Claims of the
34 Department of Insurance and those investigators designated by the
35 chief, provided that the primary duty of those investigators shall
36 be the enforcement of Section 550.

37 (j) Employees of the Department of Housing and Community
38 Development designated under Section 18023 of the Health and
39 Safety Code, provided that the primary duty of these peace officers

1 shall be the enforcement of the law as that duty is set forth in
2 Section 18023 of that code.

3 (k) Investigators of the office of the Controller, provided that
4 the primary duty of these investigators shall be the enforcement
5 of the law relating to the duties of that office. Notwithstanding any
6 other law, except as authorized by the Controller, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (l) Investigators of the Department of Corporations designated
9 by the Commissioner of Corporations, provided that the primary
10 duty of these investigators shall be the enforcement of the
11 provisions of law administered by the Department of Corporations.
12 Notwithstanding any other provision of law, the peace officers
13 designated pursuant to this subdivision shall not carry firearms.

14 (m) Persons employed by the Contractors' State License Board
15 designated by the Director of Consumer Affairs pursuant to Section
16 7011.5 of the Business and Professions Code, provided that the
17 primary duty of these persons shall be the enforcement of the law
18 as that duty is set forth in Section 7011.5, and in Chapter 9
19 (commencing with Section 7000) of Division 3, of that code. The
20 Director of Consumer Affairs may designate as peace officers not
21 more than 12 persons who shall at the time of their designation be
22 assigned to the special investigations unit of the board.
23 Notwithstanding any other provision of law, the persons designated
24 pursuant to this subdivision shall not carry firearms.

25 (n) The Chief and coordinators of the Law Enforcement Branch
26 of the California Emergency Management Agency.

27 (o) Investigators of the office of the Secretary of State designated
28 by the Secretary of State, provided that the primary duty of these
29 peace officers shall be the enforcement of the law as prescribed
30 in Chapter 3 (commencing with Section 8200) of Division 1 of
31 Title 2 of, and Section 12172.5 of, the Government Code.
32 Notwithstanding any other provision of law, the peace officers
33 designated pursuant to this subdivision shall not carry firearms.

34 (p) The Deputy Director for Security designated by Section
35 8880.38 of the Government Code, and all lottery security personnel
36 assigned to the California State Lottery and designated by the
37 director, provided that the primary duty of any of those peace
38 officers shall be the enforcement of the laws related to assuring
39 the integrity, honesty, and fairness of the operation and
40 administration of the California State Lottery.

1 (q) Investigators employed by the Investigation Division of the
2 Employment Development Department designated by the director
3 of the department, provided that the primary duty of those peace
4 officers shall be the enforcement of the law as that duty is set forth
5 in Section 317 of the Unemployment Insurance Code.

6 Notwithstanding any other provision of law, the peace officers
7 designated pursuant to this subdivision shall not carry firearms.

8 (r) The chief and assistant chief of museum security and safety
9 of the California Science Center, as designated by the executive
10 director pursuant to Section 4108 of the Food and Agricultural
11 Code, provided that the primary duty of those peace officers shall
12 be the enforcement of the law as that duty is set forth in Section
13 4108 of the Food and Agricultural Code.

14 (s) Employees of the Franchise Tax Board designated by the
15 board, provided that the primary duty of these peace officers shall
16 be the enforcement of the law as set forth in Chapter 9
17 (commencing with Section 19701) of Part 10.2 of Division 2 of
18 the Revenue and Taxation Code.

19 (t) Notwithstanding any other provision of this section, a peace
20 officer authorized by this section shall not be authorized to carry
21 firearms by his or her employing agency until that agency has
22 adopted a policy on the use of deadly force by those peace officers,
23 and until those peace officers have been instructed in the employing
24 agency's policy on the use of deadly force.

25 Every peace officer authorized pursuant to this section to carry
26 firearms by his or her employing agency shall qualify in the use
27 of the firearms at least every six months.

28 (u) Investigators of the Department of Managed Health Care
29 designated by the Director of the Department of Managed Health
30 Care, provided that the primary duty of these investigators shall
31 be the enforcement of the provisions of laws administered by the
32 Director of the Department of Managed Health Care.
33 Notwithstanding any other provision of law, the peace officers
34 designated pursuant to this subdivision shall not carry firearms.

35 (v) The Chief, Deputy Chief, supervising investigators, and
36 investigators of the Office of Protective Services of the State
37 Department of Developmental Services, provided that the primary

- 1 duty of each of those persons shall be the enforcement of the law
- 2 relating to the duties of his or her department or office.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 541
SPONSOR:	Medical Board of California & Contractors State License Board	BILL STATUS:	Chapter 339
SUBJECT:	Regulatory boards: expert consultants	DATE LAST AMENDED:	6/21/11

SUMMARY:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law.

Existing law establishes standards relating to personal service contracts in state employment.

ANALYSIS:

This bill would authorize boards within the Department of Consumer Affairs to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of consultants, instead of having to complete the formal contracting process for each consultant.

This bill would declare that it is to take effect immediately as an urgency statute.

Amended analysis of 6/21/11:

This bill amendment would clarify that the provisions would not expand the scope of practice of an expert consultant providing services.

Action:

Urgency clause adopted in the Assembly 8/25/11 and the bill sent to the Senate.

BOARD POSITION: Support (6/15/11; 9/14/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Support (8/10/11)

SUPPORT:

Medical Board of California (co-sponsor)
Contractors State License Board (co-sponsor)
Board of Barbering and Cosmetology
Board of Behavioral Sciences
Board of Optometry
Board of Pharmacy
Board of Podiatric Medicine
Board of Psychology
Board of Registered Nursing
Board of Vocational Nursing and Psychiatric Technicians
California Board of Accountancy
California State Pipe Trades Council
Court Reporters Board of California
Dental Board of California
International Brotherhood of Electrical Workers
Physician Assistant Committee
Respiratory Care Board of California
State Board of Guide Dogs for the Blind
Western States Council of Sheet Metal Workers

OPPOSE:

None on file

Senate Bill No. 541

CHAPTER 339

An act to add Section 40 to the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 541, Price. Regulatory boards: expert consultants.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 40 is added to the Business and Professions Code, to read:

40. (a) Subject to the standards described in Section 19130 of the Government Code, any board, as defined in Section 22, the State Board of Chiropractic Examiners, or the Osteopathic Medical Board of California may enter into an agreement with an expert consultant to do any of the following:

- (1) Provide an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
- (2) Assist the board as a subject matter expert in examination development, examination validation, or occupational analyses.

(3) Evaluate the mental or physical health of a licensee or an applicant for a license as may be necessary to protect the public health and safety.

(b) An executed contract between a board and an expert consultant shall be exempt from the provisions of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c) Each board shall establish policies and procedures for the selection and use of expert consultants.

(d) Nothing in this section shall be construed to expand the scope of practice of an expert consultant providing services pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that licensees engaging in certain professions and vocations are adequately regulated at the earliest possible time in order to protect and safeguard consumers and the public in this state, it is necessary that this act take effect immediately.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Kehoe	BILL NUMBER:	SB 747
SPONSOR:	Equality California	BILL STATUS:	Governor
SUBJECT:	Continuing Education: Lesbian, gay, bisexual, and transgender patients	DATE LAST AMENDED:	8/26/11

SUMMARY:

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications.

ANALYSIS:

This bill would require physicians and surgeons, registered nurses, certified vocational nurses, psychologists, marriage and family therapists, licensed clinical social workers, and psychiatric technicians to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing board to enforce these requirements.

Amended analysis of 4/4/11:

This bill amendment would add physician assistants, nurse practitioners, medical assistants and certified nurse assistants to the provision that requires the specified continuing education course. Also, the provisions in this bill would become effective on January 1, 2013.

Currently, the pre-licensure nursing programs are required to include cultural diversity **(1426d)** in the curriculum, thereby, addressing the proposed provisions in this bill. Also, in order for the nurse to renew his/her license, he/she must complete 30 hours of continuing education, and the learning experiences are expected to enhance the knowledge of the Registered Nurse at a level above that required for licensure **(1456c)**.

Amended analysis of 4/25/11:

This bill amendment would remove "medical assistants" from the list of healing art professionals.

This bill would have a fiscal impact on the Board of Registered Nursing (BRN). The BRN would need to promulgate regulations, audit licensees for compliance and send

confirmation or denial letters to licensees based on compliance. The cost to the BRN would be \$61,000 ongoing to support a staff person to meet the provisions in this bill.

Amended analysis of 6/13/11:

This bill would require individuals licensed by the board before January 1, 2013, to complete the continuing education course requirement no later than January 1, 2018. Individuals who are newly licensed by the board on and after January 1, 2013, would be required to complete the course before their third license renewal date.

This amendment would require the board to request all licensees to disclose on the renewal form or a supplemental form whether they had complied with this requirement.

Amended analysis as of 8/26/11:

This amendment provides that there would be certain exceptions to the provisions detailed in the original analysis. The Board of Registered Nursing would not be required to ensure compliance of licensees except to inform them that this requirement exists and that proof of compliance must be submitted during the license renewal process.

BOARD POSITION: Oppose (4/13/11; 9/14/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/11); Oppose (8/10/11)

SUPPORT:

Equality California (Sponsor)
California Communities United Institute
California National Organization for Women
California STD Controllers Association
Dr. Susan Love Research Foundation
Gay & Lesbian Medical Association
Lesbian and Gay Psychotherapy Association of Southern California, Inc
LGBT Psychotherapists Association of the San Francisco Bay Area
Mental Health America of Northern California
Numerous health care providers and individuals

OPPOSE:

California Academy of Family Physicians
California Association of Marriage and Family Therapists
California Orthopaedic Association
California Psychological Association

AMENDED IN ASSEMBLY AUGUST 26, 2011

AMENDED IN ASSEMBLY JUNE 13, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 747

Introduced by Senator Kehoe

February 18, 2011

An act to amend Sections 2190.1, 2811.5, 2892.5, 2915, 3524.5, 4517, 4980.54, and 4996.22 of the Business and Professions Code, and to amend Section 1337.3 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Kehoe. Continuing education: lesbian, gay, bisexual, and transgender patients.

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications. Existing law imposes various training requirements for certified nurse assistants regulated by the State Department of Public Health.

This bill would require physicians and surgeons, physician assistants, registered nurses, licensed vocational nurses, nurse practitioners, psychologists, marriage and family therapists, licensed clinical social workers, psychiatric technicians, and certified nurse assistants to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender

persons, as specified, *with certain exceptions*. The bill would *generally* require the applicable licensing or certifying entity to enforce these requirements, *with certain exceptions*. The new requirements would become effective on January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2190.1 of the Business and Professions
2 Code is amended to read:
3 2190.1. (a) The continuing medical education standards of
4 Section 2190 may be met by educational activities that meet the
5 standards of the board and serve to maintain, develop, or increase
6 the knowledge, skills, and professional performance that a
7 physician and surgeon uses to provide care, or improve the quality
8 of care provided for patients, including, but not limited to,
9 educational activities that meet any of the following criteria:
10 (1) Have a scientific or clinical content with a direct bearing on
11 the quality or cost-effective provision of patient care, community
12 or public health, or preventive medicine.
13 (2) Concern quality assurance or improvement, risk
14 management, health facility standards, or the legal aspects of
15 clinical medicine.
16 (3) Concern bioethics or professional ethics.
17 (4) Are designed to improve the physician-patient relationship.
18 (b) (1) On and after July 1, 2006, all continuing medical
19 education courses shall contain curriculum that includes cultural
20 and linguistic competency in the practice of medicine.
21 (2) Notwithstanding the provisions of paragraph (1), a
22 continuing medical education course dedicated solely to research
23 or other issues that does not include a direct patient care component
24 and a course offered by a continuing medical education provider
25 that is not located in this state are not required to contain
26 curriculum that includes cultural and linguistic competency in the
27 practice of medicine.
28 (3) Associations that accredit continuing medical education
29 courses shall develop standards before July 1, 2006, for compliance
30 with the requirements of paragraph (1). The associations may

1 develop these standards in conjunction with an advisory group that
2 has expertise in cultural and linguistic competency issues.

3 (4) A physician and surgeon who completes a continuing
4 education course meeting the standards developed pursuant to
5 paragraph (3) satisfies the continuing education requirement for
6 cultural and linguistic competency.

7 (c) In order to satisfy the requirements of subdivision (b),
8 continuing medical education courses shall address at least one or
9 a combination of the following:

10 (1) Cultural competency. For the purposes of this section,
11 “cultural competency” means a set of integrated attitudes,
12 knowledge, and skills that enables a health care professional or
13 organization to care effectively for patients from diverse cultures,
14 groups, and communities. At a minimum, cultural competency is
15 recommended to include the following:

16 (A) Applying linguistic skills to communicate effectively with
17 the target population.

18 (B) Utilizing cultural information to establish therapeutic
19 relationships.

20 (C) Eliciting and incorporating pertinent cultural data in
21 diagnosis and treatment.

22 (D) Understanding and applying cultural and ethnic data to the
23 process of clinical care.

24 (2) Linguistic competency. For the purposes of this section,
25 “linguistic competency” means the ability of a physician and
26 surgeon to provide patients who do not speak English or who have
27 limited ability to speak English, direct communication in the
28 patient’s primary language.

29 (3) A review and explanation of relevant federal and state laws
30 and regulations regarding linguistic access, including, but not
31 limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981, et
32 seq.), Executive Order 13166 of August 11, 2000, of the President
33 of the United States, and the Dymally-Alatorre Bilingual Services
34 Act (Chapter 17.5 (commencing with Section 7290) of Division
35 7 of Title 1 of the Government Code).

36 (d) (1) On and after January 1, 2013, the board shall require all
37 of its licensees under this chapter to take at least one continuing
38 education course that provides instruction on cultural competency,
39 sensitivity, and best practices for providing adequate care to
40 lesbian, gay, bisexual, and transgender persons. Persons licensed

1 by the board before January 1, 2013, shall complete the course no
2 later than January 1, 2017. Persons who are newly licensed by the
3 board on and after January 1, 2013, shall complete the course
4 within four years of their initial license issuance date or their
5 second license renewal date, whichever occurs first. The course
6 shall be between two and five hours in duration and shall contain
7 content similar to the content described in the publication of the
8 Gay and Lesbian Medical Association entitled “Guidelines for
9 Care of Lesbian, Gay, Bisexual, and Transgender Patients.” The
10 board may specify the required contents of the course by regulation
11 consistent with this subdivision. The board shall enforce this
12 requirement in the same manner as it enforces other required
13 continuing education requirements.

14 (2) *By regulatory action the board may exempt physicians and*
15 *surgeons by practice status category from the requirements of this*
16 *subdivision if the physician and surgeons does not engage in direct*
17 *patient care, does not provide patient consultations, or does not*
18 *reside in the State of California.*

19 (3) *This subdivision shall not apply to physicians and surgeons*
20 *practicing in pathology or radiology specialty areas.*

21 (e) Notwithstanding subdivision (a), educational activities that
22 are not directed toward the practice of medicine, or are directed
23 primarily toward the business aspects of medical practice,
24 including, but not limited to, medical office management, billing
25 and coding, and marketing shall not be deemed to meet the
26 continuing medical education standards for licensed physicians
27 and surgeons.

28 (f) Educational activities that meet the content standards set
29 forth in this section and are accredited by the California Medical
30 Association or the Accreditation Council for Continuing Medical
31 Education may be deemed by the Division of Licensing to meet
32 its continuing medical education standards.

33 SEC. 2. Section 2811.5 of the Business and Professions Code
34 is amended to read:

35 2811.5. (a) Each person renewing his or her license under
36 Section 2811 shall submit proof satisfactory to the board that,
37 during the preceding two-year period, he or she has been informed
38 of the developments in the registered nurse field or in any special
39 area of practice engaged in by the licensee, occurring since the
40 last renewal thereof, either by pursuing a course or courses of

1 continuing education in the registered nurse field or relevant to
2 the practice of the licensee, and approved by the board, or by other
3 means deemed equivalent by the board.

4 (b) For purposes of this section, the board shall, by regulation,
5 establish standards for continuing education. The standards shall
6 be established in a manner to ensure that a variety of alternative
7 forms of continuing education are available to licensees, including,
8 but not limited to, academic studies, in-service education, institutes,
9 seminars, lectures, conferences, workshops, extension studies, and
10 home study programs. The standards shall take cognizance of
11 specialized areas of practice. The continuing education standards
12 established by the board shall not exceed 30 hours of direct
13 participation in a course or courses approved by the board, or its
14 equivalent in the units of measure adopted by the board.

15 (c) The board shall encourage continuing education in spousal
16 or partner abuse detection and treatment. In the event the board
17 establishes a requirement for continuing education coursework in
18 spousal or partner abuse detection or treatment, that requirement
19 shall be met by each licensee within no more than four years from
20 the date the requirement is imposed.

21 (d) In establishing standards for continuing education, the board
22 shall consider including a course in the special care needs of
23 individuals and their families facing end-of-life issues, including,
24 but not limited to, all of the following:

- 25 (1) Pain and symptom management.
- 26 (2) The psycho-social dynamics of death.
- 27 (3) Dying and bereavement.
- 28 (4) Hospice care.

29 (e) In establishing standards for continuing education, the board
30 may include a course on pain management.

31 (f) This section shall not apply to licensees during the first two
32 years immediately following their initial licensure in California
33 or any other governmental jurisdiction.

34 (g) On and after January 1, 2013, ~~the board shall require all of~~
35 ~~its licensees to~~ *all persons licensed by the board shall* take at least
36 one continuing education course that provides instruction on
37 cultural competency, sensitivity, and best practices for providing
38 adequate care to lesbian, gay, bisexual, and transgender persons.
39 Persons licensed by the board before January 1, 2013, shall
40 complete the course no later than January 1, 2018. Persons who

1 are newly licensed by the board on and after January 1, 2013, shall
2 complete the course before their third license renewal date. The
3 course shall be between two and five hours in duration and shall
4 contain content similar to the content described in the publication
5 of the Gay and Lesbian Medical Association entitled “Guidelines
6 for Care of Lesbian, Gay, Bisexual, and Transgender Patients.”
7 The board may specify the required contents of the course by
8 regulation consistent with this subdivision. The board shall not
9 enforce this requirement ~~in the same manner as it enforces other~~
10 ~~required continuing education requirements, and shall instead~~
11 ~~request all persons licensed by the board to disclose on the renewal~~
12 ~~form or a supplemental form whether they have complied with~~
13 ~~this requirement. nor shall the board ensure compliance of~~
14 ~~licensees except to inform licensees that this requirement exists~~
15 ~~and that proof of compliance must be submitted during the license~~
16 ~~renewal process.~~

17 (h) The board may, in accordance with the intent of this section,
18 make exceptions from continuing education requirements for
19 licensees residing in another state or country, or for reasons of
20 health, military service, or other good cause.

21 (i) This section shall apply to all persons licensed under this
22 chapter, including nurse practitioners.

23 SEC. 3. Section 2892.5 of the Business and Professions Code
24 is amended to read:

25 2892.5. (a) Each person renewing his or her license under the
26 provisions of this chapter shall submit proof satisfactory to the
27 board that, during the preceding two-year period, he or she has
28 informed himself or herself of developments in the vocational
29 nurse field or in any special area of vocational nurse practice,
30 occurring since the issuance of his or her certificate, or the last
31 renewal thereof, whichever last occurred, either by pursuing a
32 course or courses of continuing education approved by the board
33 in the vocational nurse field or relevant to the practice of such
34 licensee, and approved by the board; or by other means deemed
35 equivalent by the board.

36 (b) For purposes of this section, the board shall, by regulation,
37 establish standards for continuing education. The standards shall
38 be established in a manner to ensure that a variety of alternative
39 forms of continuing education are available to licensees including,
40 but not limited to, academic studies, in-service education, institutes,

1 seminars, lectures, conferences, workshops, extension studies, and
2 home study programs. The standards shall take cognizance of
3 specialized areas of practice. The continuing education standards
4 established by the board shall not exceed 30 hours of direct
5 participation in a course or courses approved by the board, or its
6 equivalent in the units of measure adopted by the board.

7 (c) This section shall not apply to the first license renewal
8 following the initial issuance of a license.

9 (d) On and after January 1, 2013, the board shall require all of
10 its licensees to take at least one continuing education course that
11 provides instruction on cultural competency, sensitivity, and best
12 practices for providing adequate care to lesbian, gay, bisexual, and
13 transgender persons. Persons licensed by the board before January
14 1, 2013, shall complete the course no later than January 1, 2017.
15 Persons who are newly licensed by the board on and after January
16 1, 2013, shall complete the course within four years of their initial
17 license issuance date or their second license renewal date,
18 whichever occurs first. The course shall be between two and five
19 hours in duration and shall contain content similar to the content
20 described in the publication of the Gay and Lesbian Medical
21 Association entitled "Guidelines for Care of Lesbian, Gay,
22 Bisexual, and Transgender Patients." The board may specify the
23 required contents of the course by regulation consistent with this
24 subdivision. The board shall enforce this requirement in the same
25 manner as it enforces other required continuing education
26 requirements.

27 (e) The board may, in accordance with the intent of this section,
28 make exceptions from continuing education for licensees residing
29 in another state or country, or for reasons of health, military service,
30 or other good cause.

31 SEC. 4. Section 2915 of the Business and Professions Code is
32 amended to read:

33 2915. (a) Except as provided in this section, on or after January
34 1, 1996, the board shall not issue any renewal license unless the
35 applicant submits proof that he or she has completed no less than
36 18 hours of approved continuing education in the preceding year.
37 On or after January 1, 1997, except as provided in this section, the
38 board shall issue renewal licenses only to those applicants who
39 have completed 36 hours of approved continuing education in the
40 preceding two years.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) A person applying for relicensure or for reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) (1) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1.

(2) (A) The board shall require a licensed psychologist who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.

(B) Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under subdivision (a).

(C) A licensed psychologist whose practice does not include the direct provision of mental health services may apply to the board for an exemption from the requirements of this paragraph.

(3) Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

(e) The board may establish a policy for exceptions from the continuing education requirement of this section.

(f) The board may recognize continuing education courses that have been approved by one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for psychologists on a statewide basis, including, but not limited to:

1 (1) Maintaining and managing related records and data.

2 (2) Monitoring and approving courses.

3 (g) The board shall adopt regulations as necessary for
4 implementation of this section.

5 (h) A licensed psychologist shall choose continuing education
6 instruction that is related to the assessment, diagnosis, and
7 intervention for the client population being served or to the fields
8 of psychology in which the psychologist intends to provide
9 services, that may include new theoretical approaches, research,
10 and applied techniques. Continuing education instruction shall
11 include required courses specified in subdivision (d).

12 (i) A psychologist shall not practice outside his or her particular
13 field or fields of competence as established by his or her education,
14 training, continuing education, and experience.

15 (j) On and after January 1, 2013, the board shall require every
16 person licensed under this chapter to take at least one continuing
17 education course that provides instruction on cultural competency,
18 sensitivity, and best practices for providing adequate care to
19 lesbian, gay, bisexual, and transgender persons. Persons licensed
20 by the board before January 1, 2013, shall complete the course no
21 later than January 1, 2017. Persons who are newly licensed by the
22 board under this chapter on and after January 1, 2013, shall
23 complete the course within four years of their initial license
24 issuance date or their second license renewal date, whichever
25 occurs first. The course shall be between two and five hours in
26 duration and shall contain content similar to the content described
27 in the publication of the Gay and Lesbian Medical Association
28 entitled “Guidelines for Care of Lesbian, Gay, Bisexual, and
29 Transgender Patients.” The board may specify the required contents
30 of the course by regulation consistent with this subdivision. The
31 board shall enforce this requirement in the same manner as it
32 enforces other required continuing education requirements.

33 (k) The administration of this section may be funded through
34 professional license fees and continuing education provider and
35 course approval fees, or both. The fees related to the administration
36 of this section shall not exceed the costs of administering the
37 corresponding provisions of this section.

38 (l) Continuing education credit may be approved for those
39 licensees who serve as commissioners on any examination pursuant
40 to Section 2947, subject to limitations established by the board.

1 SEC. 5. Section 3524.5 of the Business and Professions Code
2 is amended to read:

3 3524.5. (a) The committee may require a licensee to complete
4 continuing education as a condition of license renewal under
5 Section 3523 or 3524. The committee shall not require more than
6 50 hours of continuing education every two years. The committee
7 shall, as it deems appropriate, accept certification by the National
8 Commission on Certification of Physician Assistants (NCCPA),
9 or another qualified certifying body, as determined by the
10 committee, as evidence of compliance with continuing education
11 requirements.

12 (b) On and after January 1, 2013, the board shall require all of
13 its licensees under this chapter to take at least one continuing
14 education course that provides instruction on cultural competency,
15 sensitivity, and best practices for providing adequate care to
16 lesbian, gay, bisexual, and transgender persons. Persons licensed
17 by the board before January 1, 2013, shall complete the course no
18 later than January 1, 2017. Persons who are newly licensed by the
19 board on and after January 1, 2013, shall complete the course
20 within four years of their initial license issuance date or their
21 second license renewal date, whichever occurs first. The course
22 shall be between two and five hours in duration and shall contain
23 content similar to the content described in the publication of the
24 Gay and Lesbian Medical Association entitled "Guidelines for
25 Care of Lesbian, Gay, Bisexual, and Transgender Patients." The
26 board may specify the required contents of the course by regulation
27 consistent with this subdivision. The board shall enforce this
28 requirement in the same manner as it enforces other required
29 continuing education requirements.

30 SEC. 6. Section 4517 of the Business and Professions Code is
31 amended to read:

32 4517. (a) The board may, in its discretion, provide for a
33 continuing education program in connection with the professional
34 functions and courses described in this chapter. The number of
35 course hours that the board may require in a continuing education
36 program shall not exceed the number of course hours prescribed
37 for licensed vocational nurses pursuant to Section 2892.5.

38 (b) On and after January 1, 2013, the board shall require all of
39 its licensees to take at least one continuing education course that
40 provides instruction on cultural competency, sensitivity, and best

1 practices for providing adequate care to lesbian, gay, bisexual, and
2 transgender persons. Persons licensed by the board before January
3 1, 2013, shall complete the course no later than January 1, 2017.
4 Persons who are newly licensed by the board on and after January
5 1, 2013, shall complete the course within four years of their initial
6 license issuance date or their second license renewal date,
7 whichever occurs first. The course shall be between two and five
8 hours in duration and shall contain content similar to the content
9 described in the publication of the Gay and Lesbian Medical
10 Association entitled "Guidelines for Care of Lesbian, Gay,
11 Bisexual, and Transgender Patients." The board may specify the
12 required contents of the course by regulation consistent with this
13 subdivision. The board shall enforce this requirement in the same
14 manner as it enforces other required continuing education
15 requirements.

16 SEC. 7. Section 4980.54 of the Business and Professions Code
17 is amended to read:

18 4980.54. (a) The Legislature recognizes that the education and
19 experience requirements in this chapter constitute only minimal
20 requirements to ensure that an applicant is prepared and qualified
21 to take the licensure examinations as specified in subdivision (d)
22 of Section 4980.40 and, if he or she passes those examinations, to
23 begin practice.

24 (b) In order to continuously improve the competence of licensed
25 marriage and family therapists and as a model for all
26 psychotherapeutic professions, the Legislature encourages all
27 licensees to regularly engage in continuing education related to
28 the profession or scope of practice as defined in this chapter.

29 (c) Except as provided in subdivision (e), the board shall not
30 renew any license pursuant to this chapter unless the applicant
31 certifies to the board, on a form prescribed by the board, that he
32 or she has completed not less than 36 hours of approved continuing
33 education in or relevant to the field of marriage and family therapy
34 in the preceding two years, as determined by the board.

35 (d) The board shall have the right to audit the records of any
36 applicant to verify the completion of the continuing education
37 requirement. Applicants shall maintain records of completion of
38 required continuing education coursework for a minimum of two
39 years and shall make these records available to the board for
40 auditing purposes upon request.

1 (e) The board may establish exceptions from the continuing
2 education requirements of this section for good cause, as defined
3 by the board.

4 (f) The continuing education shall be obtained from one of the
5 following sources:

6 (1) An accredited school or state-approved school that meets
7 the requirements set forth in Section 4980.36 or 4980.37. Nothing
8 in this paragraph shall be construed as requiring coursework to be
9 offered as part of a regular degree program.

10 (2) Other continuing education providers, including, but not
11 limited to, a professional marriage and family therapist association,
12 a licensed health facility, a governmental entity, a continuing
13 education unit of an accredited four-year institution of higher
14 learning, or a mental health professional association, approved by
15 the board.

16 (g) The board shall establish, by regulation, a procedure for
17 approving providers of continuing education courses, and all
18 providers of continuing education, as described in paragraphs (1)
19 and (2) of subdivision (f), shall adhere to procedures established
20 by the board. The board may revoke or deny the right of a provider
21 to offer continuing education coursework pursuant to this section
22 for failure to comply with the requirements of this section or any
23 regulation adopted pursuant to this section.

24 (h) Training, education, and coursework by approved providers
25 shall incorporate one or more of the following:

26 (1) Aspects of the discipline that are fundamental to the
27 understanding or the practice of marriage and family therapy.

28 (2) Aspects of the discipline of marriage and family therapy in
29 which significant recent developments have occurred.

30 (3) Aspects of other disciplines that enhance the understanding
31 or the practice of marriage and family therapy.

32 (i) A system of continuing education for licensed marriage and
33 family therapists shall include courses directly related to the
34 diagnosis, assessment, and treatment of the client population being
35 served.

36 (j) On and after January 1, 2013, the board shall require all of
37 its licensees to take at least one continuing education course that
38 provides instruction on cultural competency, sensitivity, and best
39 practices for providing adequate care to lesbian, gay, bisexual, and
40 transgender persons. Persons licensed by the board before January

1 1, 2013, shall complete the course no later than January 1, 2017.
2 Persons who are newly licensed by the board on and after January
3 1, 2013, shall complete the course within four years of their initial
4 license issuance date or their second license renewal date,
5 whichever occurs first. The course shall be between two and five
6 hours in duration and shall contain content similar to the content
7 described in the publication of the Gay and Lesbian Medical
8 Association entitled “Guidelines for Care of Lesbian, Gay,
9 Bisexual, and Transgender Patients.” The board may specify the
10 required contents of the course by regulation consistent with this
11 subdivision. The board shall enforce this requirement in the same
12 manner as it enforces other required continuing education
13 requirements.

14 (k) The board shall, by regulation, fund the administration of
15 this section through continuing education provider fees to be
16 deposited in the Behavioral Sciences Fund. The fees related to the
17 administration of this section shall be sufficient to meet, but shall
18 not exceed, the costs of administering the corresponding provisions
19 of this section. For purposes of this subdivision, a provider of
20 continuing education as described in paragraph (1) of subdivision
21 (f) shall be deemed to be an approved provider.

22 (l) The continuing education requirements of this section shall
23 comply fully with the guidelines for mandatory continuing
24 education established by the Department of Consumer Affairs
25 pursuant to Section 166.

26 SEC. 8. Section 4996.22 of the Business and Professions Code
27 is amended to read:

28 4996.22. (a) (1) Except as provided in subdivision (c), the
29 board shall not renew any license pursuant to this chapter unless
30 the applicant certifies to the board, on a form prescribed by the
31 board, that he or she has completed not less than 36 hours of
32 approved continuing education in or relevant to the field of social
33 work in the preceding two years, as determined by the board.

34 (2) The board shall not renew any license of an applicant who
35 began graduate study prior to January 1, 2004, pursuant to this
36 chapter unless the applicant certifies to the board that during the
37 applicant’s first renewal period after the operative date of this
38 section, he or she completed a continuing education course in
39 spousal or partner abuse assessment, detection, and intervention
40 strategies, including community resources, cultural factors, and

1 same gender abuse dynamics. On and after January 1, 2005, the
2 course shall consist of not less than seven hours of training.
3 Equivalent courses in spousal or partner abuse assessment,
4 detection, and intervention strategies taken prior to the operative
5 date of this section or proof of equivalent teaching or practice
6 experience may be submitted to the board and at its discretion,
7 may be accepted in satisfaction of this requirement. Continuing
8 education courses taken pursuant to this paragraph shall be applied
9 to the 36 hours of approved continuing education required under
10 paragraph (1).

11 (b) The board shall have the right to audit the records of any
12 applicant to verify the completion of the continuing education
13 requirement. Applicants shall maintain records of completion of
14 required continuing education coursework for a minimum of two
15 years and shall make these records available to the board for
16 auditing purposes upon request.

17 (c) The board may establish exceptions from the continuing
18 education requirement of this section for good cause as defined
19 by the board.

20 (d) The continuing education shall be obtained from one of the
21 following sources:

22 (1) An accredited school of social work, as defined in Section
23 4991.2, or a school or department of social work that is a candidate
24 for accreditation by the Commission on Accreditation of the
25 Council on Social Work Education. Nothing in this paragraph shall
26 be construed as requiring coursework to be offered as part of a
27 regular degree program.

28 (2) Other continuing education providers, including, but not
29 limited to, a professional social work association, a licensed health
30 facility, a governmental entity, a continuing education unit of an
31 accredited four-year institution of higher learning, and a mental
32 health professional association, approved by the board.

33 (e) The board shall establish, by regulation, a procedure for
34 approving providers of continuing education courses, and all
35 providers of continuing education, as described in paragraphs (1)
36 and (2) of subdivision (d), shall adhere to the procedures
37 established by the board. The board may revoke or deny the right
38 of a provider to offer continuing education coursework pursuant
39 to this section for failure to comply with the requirements of this
40 section or any regulation adopted pursuant to this section.

1 (f) Training, education, and coursework by approved providers
2 shall incorporate one or more of the following:

3 (1) Aspects of the discipline that are fundamental to the
4 understanding, or the practice, of social work.

5 (2) Aspects of the social work discipline in which significant
6 recent developments have occurred.

7 (3) Aspects of other related disciplines that enhance the
8 understanding, or the practice, of social work.

9 (g) A system of continuing education for licensed clinical social
10 workers shall include courses directly related to the diagnosis,
11 assessment, and treatment of the client population being served.

12 (h) The continuing education requirements of this section shall
13 comply fully with the guidelines for mandatory continuing
14 education established by the Department of Consumer Affairs
15 pursuant to Section 166.

16 (i) On and after January 1, 2013, the board shall require all of
17 its licensees to take at least one continuing education course that
18 provides instruction on cultural competency, sensitivity, and best
19 practices for providing adequate care to lesbian, gay, bisexual, and
20 transgender persons. Persons licensed by the board before January
21 1, 2013, shall complete the course no later than January 1, 2017.
22 Persons who are newly licensed by the board on and after January
23 1, 2013, shall complete the course within four years of their initial
24 license issuance date or their second license renewal date,
25 whichever occurs first. The course shall be between two and five
26 hours in duration and shall contain content similar to the content
27 described in the publication of the Gay and Lesbian Medical
28 Association entitled “Guidelines for Care of Lesbian, Gay,
29 Bisexual, and Transgender Patients.” The board may specify the
30 required contents of the course by regulation consistent with this
31 subdivision. The board shall enforce this requirement in the same
32 manner as it enforces other required continuing education
33 requirements.

34 (j) The board may adopt regulations as necessary to implement
35 this section.

36 (k) The board shall, by regulation, fund the administration of
37 this section through continuing education provider fees to be
38 deposited in the Behavioral Science Examiners Fund. The fees
39 related to the administration of this section shall be sufficient to
40 meet, but shall not exceed, the costs of administering the

1 corresponding provisions of this section. For purposes of this
2 subdivision, a provider of continuing education as described in
3 paragraph (1) of subdivision (d) shall be deemed to be an approved
4 provider.

5 SEC. 9. Section 1337.3 of the Health and Safety Code is
6 amended to read:

7 1337.3. (a) The state department shall prepare and maintain
8 a list of approved training programs for nurse assistant certification.
9 The list shall include training programs conducted by skilled
10 nursing or intermediate care facilities, as well as local agencies
11 and education programs. In addition, the list shall include
12 information on whether a training center is currently training nurse
13 assistants, their competency test pass rates, and the number of
14 nurse assistants they have trained. Clinical portions of the training
15 programs may be obtained as on-the-job training, supervised by a
16 qualified director of staff development or licensed nurse.

17 (b) It shall be the duty of the state department to inspect a
18 representative sample of training programs. The state department
19 shall protect consumers and students in any training program
20 against fraud, misrepresentation, or other practices that may result
21 in improper or excessive payment of funds paid for training
22 programs. In evaluating a training center's training program, the
23 state department shall examine each training center's trainees'
24 competency test passage rate, and require each program to maintain
25 an average 60 percent test score passage rate to maintain its
26 participation in the program. The average test score passage rate
27 shall be calculated over a two-year period. If the state department
28 determines that any training program is not complying with
29 regulations or is not meeting the competency passage rate
30 requirements, notice thereof in writing shall be immediately given
31 to the program. If the program has not been brought into
32 compliance within a reasonable time, the program may be removed
33 from the approved list and notice thereof in writing given to it.
34 Programs removed under this article shall be afforded an
35 opportunity to request reinstatement of program approval at any
36 time. The state department's district offices shall inspect
37 facility-based centers as part of their annual survey.

38 (c) Notwithstanding Section 1337.1, the approved training
39 program shall consist of at least the following:

1 (1) A 16-hour orientation program to be given to newly
2 employed nurse assistants prior to providing direct patient care,
3 and consistent with federal training requirements for facilities
4 participating in the Medicare or Medicaid programs.

5 (2) (A) A certification training program consisting of at least
6 60 classroom hours of training on basic nursing skills, patient
7 safety and rights, the social and psychological problems of patients,
8 and elder abuse recognition and reporting pursuant to subdivision
9 (e) of Section 1337.1. The 60 classroom hours of training may be
10 conducted within a skilled nursing facility, an intermediate care
11 facility, or an educational institution.

12 (B) In addition to the 60 classroom hours of training required
13 under subparagraph (A), the certification program shall also consist
14 of 100 hours of supervised and on-the-job training clinical practice.
15 The 100 hours may consist of normal employment as a nurse
16 assistant under the supervision of either the director of staff
17 development or a licensed nurse qualified to provide nurse assistant
18 training who has no other assigned duties while providing the
19 training.

20 (3) At least two hours of the 60 hours of classroom training and
21 at least four hours of the 100 hours of the supervised clinical
22 training shall address the special needs of persons with
23 developmental and mental disorders, including mental retardation,
24 Alzheimer's disease, cerebral palsy, epilepsy, dementia,
25 Parkinson's disease, and mental illness.

26 (4) On and after January 1, 2013, at least two, but not more than
27 five, hours of the classroom training shall provide instruction on
28 cultural competency, sensitivity, and best practices for providing
29 adequate care to lesbian, gay, bisexual, and transgender persons.
30 Persons certified by the state department under this article before
31 January 1, 2013, shall complete the course no later than January
32 1, 2017. Persons who are newly certified by the state department
33 under this article on and after January 1, 2013, shall complete the
34 course within four years of their initial certificate issuance date or
35 their second certificate renewal date, whichever occurs first. The
36 instruction shall contain content similar to the content described
37 in the publication of the Gay and Lesbian Medical Association
38 entitled "Guidelines for Care of Lesbian, Gay, Bisexual, and
39 Transgender Patients." The state department may specify the
40 required contents of the course by regulation consistent with this

1 paragraph. The state department shall enforce this requirement in
2 the same manner as it enforces other required training requirements.

3 (d) The state department, in consultation with the State
4 Department of Education and other appropriate organizations, shall
5 develop criteria for approving training programs, that includes
6 program content for orientation, training, inservice, and the
7 examination for testing knowledge and skills related to basic patient
8 care services and shall develop a plan that identifies and encourages
9 career ladder opportunities for certified nurse assistants. This group
10 shall also recommend, and the department shall adopt, regulation
11 changes necessary to provide for patient care when facilities utilize
12 noncertified nurse assistants who are performing direct patient
13 care. The requirements of this subdivision shall be established by
14 January 1, 1989.

15 (e) On or before January 1, 2004, the state department, in
16 consultation with the State Department of Education, the American
17 Red Cross, and other appropriate organizations, shall do the
18 following:

19 (1) Review the current examination for approved training
20 programs for certified nurse assistants to ensure the accurate
21 assessment of whether a nurse assistant has obtained the required
22 knowledge and skills related to basic patient care services.

23 (2) Develop a plan that identifies and encourages career ladder
24 opportunities for certified nurse assistants, including the application
25 of on-the-job post-certification hours to educational credits.

26 (f) A skilled nursing or intermediate care facility shall determine
27 the number of specific clinical hours within each module identified
28 by the state department required to meet the requirements of
29 subdivision (d), subject to subdivisions (b) and (c). The facility
30 shall consider the specific hours recommended by the state
31 department when adopting the certification training program
32 required by this chapter.

33 (g) This article shall not apply to a program conducted by any
34 church or denomination for the purpose of training the adherents
35 of the church or denomination in the care of the sick in accordance
36 with its religious tenets.

37 (h) The Chancellor of the California Community Colleges shall
38 provide to the state department a standard process for approval of

- 1 college credit. The state department shall make this information
- 2 available to all training programs in the state.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
October 12, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 943
SPONSOR:	Committee on Business, Professions & Economic Development	BILL STATUS:	Chapter 350
SUBJECT:	Healing Arts (Omnibus Bill)	DATE LAST AMENDED:	8/29/11

SUMMARY:

Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing.

Existing law requires applicants for licensure as a registered nurse to meet certain educational requirements, to have completed specified courses of instruction, and to not be subject to denial of licensure under specified circumstances. Existing law authorizes applicants who have served on active duty in the medical corps in the United States Armed Forces to submit a record of specified training to the board for evaluation in order to satisfy the courses of instruction requirement. Under existing law, if the applicant satisfies the other general licensure requirements and if the board determines that both education and experience establish competency to practice registered nursing, the applicant shall be granted a license upon passing a certain examination,

Existing law allows for furnishing or ordering of drugs or devices by nurse practitioner who is authorized and registered with the United States Drug Enforcement Administration. This section of code incorrectly references an incorrect and nonexistent section of code.

ANALYSIS:

This bill would limit the requirements for the Board to determine the eligibility for a member of the military to sit for a licensure examination to be based on education only, not experience.

Business and Professions Code 2736.5. (a) would be amended as follows:

Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical service technician—*independent duty*, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his education ~~and experience~~ would give reasonable assurance of competence to practice as a registered nurse in this state, he shall be granted a license upon passing the standard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education ~~and experience~~ of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education ~~and experience~~ alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education ~~and experience~~ plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the armed forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

This bill would also correct an error in existing law that cites an incorrect and nonexistent code section, by replacing the citation with the correct code section.

Business and Professions Code 2836.2. would be amended as follows:

Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section ~~2831.4~~ **2836.1** to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

Amended analysis of 5/11/11-8/29/11:

The bill amendments did not change any of the code sections related to nursing in a substantive way.

BOARD POSITION: Support (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

Senate Bill No. 943

CHAPTER 350

An act to amend Sections 1916, 1917, 1917.2, 1918, 1922, 1927, 1950, 1952, 1955, 1957, 1959, 1961, 1962, 1963, 1966.1, 2313, 2736.5, 2836.2, 2936, 3519, 3575, 4200, 4836.1, 4980.36, 4980.37, 4980.40.5, 4980.42, 4980.45, 4982.25, 4989.54, 4990.38, 4992.3, 4992.36, 4996.13, 4996.24, 4999.12, and 4999.90 of, to add Sections 1902.1, 4999.91, and 4999.455 to, and to repeal Section 1945 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 943, Committee on Business, Professions and Economic Development.
Healing arts.

Existing law provides for the licensure and regulation of various healing arts licensees by boards within the Department of Consumer Affairs.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions by the Dental Hygiene Committee of California within the Dental Board of California.

Existing law requires applicants for licensure to provide fingerprint images for submission to governmental agencies, in order to, among other things, establish the identity of the applicant.

This bill would require applicants to submit electronic fingerprint images.

Existing law requires the committee to license as a registered dental hygienist, a registered dental hygienist in extended functions, or a registered dental hygienist in alternative practice a person who meets certain educational, training, and examination requirements.

This bill would additionally require these applicants to complete an application and pay required application fees.

Existing law, until January 1, 2012, requires the committee to license as a registered dental hygienist a 3rd- or 4th-year dental student who is in good standing at an accredited California dental school, who satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee, and who satisfactorily completes a national written dental hygiene examination approved by the committee.

This bill would extend those provisions until January 1, 2014.

Under existing law, a licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications,

functions, or duties. Existing law authorizes the committee to order a license suspended or revoked or to decline to issue a license if certain procedural events occur.

This bill would additionally authorize the committee to reprimand a licensee or order a license placed on probation.

Under existing law, a licensee or health care facility that fails to comply with a specified request from the committee for a patient's dental hygiene records is subject to a \$250 per day civil penalty for each day that the records have not been produced, as specified.

This bill would additionally require licensees and health care facilities to comply with a request for a patient's dental records and would make them subject to a civil or administrative penalty or fine up to a maximum of \$250 per day for each day that the records have not been produced, as specified.

(2) Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing.

Existing law requires applicants for licensure as a registered nurse to meet certain educational requirements, to have completed specified courses of instruction, and to not be subject to denial of licensure under specified circumstances. Existing law authorizes applicants who have served on active duty in the medical corps in the United States Armed Forces to submit a record of specified training to the board for evaluation in order to satisfy the courses of instruction requirement. Under existing law, if the applicant satisfies the other general licensure requirements and if the board determines that both education and experience establish competency to practice registered nursing, the applicant shall be granted a license upon passing a certain examination.

This bill would limit that board determination to be based on education only.

(3) Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician assistants by the Physician Assistant Committee. Existing law requires the committee to issue a license to a physician assistant applicant who, among other things, provides evidence of either successful completion of an approved program, as defined, or a resident course of professional instruction meeting certain requirements.

This bill would instead require applicants to provide evidence of successful completion of an approved program, as defined.

(4) Existing law provides for the registration and regulation of polysomnographic technologists by the Medical Board of California. Existing law requires the board to promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists. Existing law specifies that the qualifications for a certified polysomnographic technologist includes meeting certain educational requirements and the passage of a national certifying examination. Existing law authorizes, for a specified period, the examination requirement to be satisfied if the applicant submits proof that he or she has been practicing polysomnography for at least 5 years, as specified.

This bill would authorize, for a specified period, all of these qualifications to be satisfied if the applicant submits proof that he or she has been practicing polysomnography for at least 5 years, as specified.

(5) Existing law, the Veterinary Medicine Practice Act, until January 1, 2012, authorizes a registered veterinary technician and an unregistered assistant to administer a drug, including, but not limited to, a drug that is a controlled substance, except for the induction of anesthesia, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of the veterinarian.

This bill would extend the operation of that provision to January 1, 2013.

(6) Under existing law, the Board of Behavioral Sciences is responsible for the licensure, registration, and regulation of, among others, marriage and family therapists, licensed clinical social workers, and licensed professional clinical counselors.

(A) Existing law, the Marriage and Family Therapist Act, provides for the licensure and regulation of marriage and family therapists and makes a violation of the act a crime. Existing law, with respect to marriage and family therapists and marriage and family therapist interns, requires an applicant to possess a doctoral or master's degree in any of various disciplines, including, but not limited to, marriage, family, and child counseling.

This bill would add couple and family therapy to that list of acceptable disciplines.

Existing law requires that degree to contain a specified number of units of instruction that includes practicum involving direct client contact of a specified number of hours of face-to-face experience counseling individuals, couples, families, or groups and authorizes a portion of those hours to be gained performing client centered advocacy, as defined.

This bill would revise and recast that requirement and would authorize that portion of hours to be gained performing either client centered advocacy, as defined, or face-to-face experience counseling individuals, couples, families, or groups.

Existing law authorizes a licensed professional in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize such a licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list. Because the bill would change the definition of a crime, it would thereby impose a state-mandated local program.

Under existing law, a marriage and family therapy corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registered interns and would include clinical counsel interns.

(B) The Clinical Social Worker Practice Act provides for the licensure and regulation of social workers and makes a violation of the act a crime. Under existing law, qualified members of other professional groups may do work of a psychosocial nature consistent with the standards and ethics of their respective professions.

This bill would specify that licensed professional clinical counselors may do such work.

Existing law authorizes a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize that licensed professional to supervise or employ no more than a total of 3 individuals and would add clinical counsel interns to that list.

Under existing law, a licensed clinical social workers' corporation may employ no more than a total of 2 individuals registered as either a marriage and family therapist intern or associate clinical social worker for each employee who has satisfied certain requirements. Existing law prohibits the corporation from employing more than 10 individuals registered as either a marriage and family therapist intern or associate clinical social worker.

This bill would authorize the corporation to employ no more than a total of 3 individuals and would add clinical counsel interns to that list. The bill would also authorize the corporation to employ no more than 15 registered interns and would include clinical counsel interns.

By changing the definition of crimes, the bill would impose a state-mandated local program.

(C) Existing law, the Licensed Professional Clinical Counselor Act, provides for the licensure and regulation of professional clinical counselors and makes a violation of the act a crime. Existing law generally authorizes the board to take certain enforcement actions against licensees for a violation of the act.

This bill would authorize the board to deny any application, or to suspend or revoke any license or registration, for specified reasons.

The bill would also authorize a licensee in private practice meeting certain requirements to supervise or employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. The bill would authorize professional clinical counselor corporation to employ no more than a total of 3 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee. The bill would prohibit the corporation from employing more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate

clinical social worker. Because a violation of these requirements would constitute a crime, the bill would impose a state-mandated local program.

The bill would make other conforming and technical changes, including technical changes to the Psychology Licensing Law and the Pharmacy Law.

(7) This bill would incorporate changes to Sections 4980.36 and 4980.42 of the Business and Professions Code proposed by SB 363 and changes to Section 4999.90 of the Business and Professions Code proposed by SB 946, if these bills are also enacted and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1902.1 is added to the Business and Professions Code, to read:

1902.1. Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 2. Section 1916 of the Business and Professions Code is amended to read:

1916. (a) An applicant for licensure under this article shall furnish electronic fingerprint images for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and for the other purposes described in this section.

(b) The committee shall submit the fingerprint images to the Department of Justice for the purposes of obtaining criminal offender record information regarding state and federal level convictions and arrests, including arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(c) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate the response to the committee.

(d) The Department of Justice shall provide a response to the committee pursuant to subdivision (p) of Section 11105 of the Penal Code.

(e) The committee shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code.

(f) The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code, and to determine

whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1943.

(g) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

SEC. 3. Section 1917 of the Business and Professions Code is amended to read:

1917. The committee shall grant initial licensure as a registered dental hygienist to a person who satisfies all of the following requirements:

(a) Completion of an educational program for registered dental hygienists, approved by the committee, accredited by the Commission on Dental Accreditation, and conducted by a degree-granting, postsecondary institution.

(b) Satisfactory performance on the state clinical examination, or satisfactory completion of the dental hygiene examination given by the Western Regional Examining Board or any other clinical dental hygiene examination approved by the committee.

(c) Satisfactory completion of the National Dental Hygiene Board examination.

(d) Satisfactory completion of the examination in California law and ethics as prescribed by the committee.

(e) Submission of a completed application form and all fees required by the committee.

SEC. 4. Section 1917.2 of the Business and Professions Code is amended to read:

1917.2. (a) The committee shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

(1) Satisfactorily performs on a clinical examination and an examination in California law and ethics as prescribed by the committee.

(2) Satisfactorily completes a national written dental hygiene examination approved by the committee.

(b) A dental student who is granted a registered dental hygienist license pursuant to this section may only practice in a dental practice that serves patients who are insured under Denti-Cal, the Healthy Families Program, or other government programs, or a dental practice that has a sliding scale fee system based on income.

(c) Upon receipt of a license to practice dentistry pursuant to Section 1634, a registered dental hygienist license issued pursuant to this subdivision is automatically revoked.

(d) The dental hygienist license is granted for two years upon passage of the dental hygiene examination, without the ability for renewal.

(e) Notwithstanding subdivision (d), if a dental student fails to remain in good standing at an accredited California dental school, or fails to graduate from the dental program, a registered dental hygienist license issued pursuant to this section shall be revoked. The student shall be responsible for submitting appropriate verifying documentation to the committee.

(f) The provisions of this section shall be reviewed pursuant to Division 1.2 (commencing with Section 473). However, the review shall be limited to the fiscal feasibility and impact on the committee.

(g) This section shall become inoperative as of January 1, 2014.

SEC. 5. Section 1918 of the Business and Professions Code is amended to read:

1918. The committee shall license as a registered dental hygienist in extended functions a person who meets all of the following requirements:

(a) Holds a current license as a registered dental hygienist in California.

(b) Completes clinical training approved by the committee in a facility affiliated with a dental school under the direct supervision of the dental school faculty.

(c) Performs satisfactorily on an examination required by the committee.

(d) Completes an application form and pays all application fees required by the committee.

SEC. 6. Section 1922 of the Business and Professions Code is amended to read:

1922. The committee shall license as a registered dental hygienist in alternative practice a person who demonstrates satisfactory performance on an examination in California law and ethics required by the committee and who completes an application form and pays all application fees required by the committee and meets either of the following requirements:

(a) Holds a current California license as a registered dental hygienist and meets the following requirements:

(1) Has been engaged in the practice of dental hygiene, as defined in Section 1908, as a registered dental hygienist in any setting, including, but not limited to, educational settings and public health settings, for a minimum of 2,000 hours during the immediately preceding 36 months.

(2) Has successfully completed a bachelor's degree or its equivalent from a college or institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education, and a minimum of 150 hours of additional educational requirements, as prescribed by the committee by regulation, that are consistent with good dental and dental hygiene practice, including, but not necessarily limited to, dental hygiene technique and theory including gerontology and medical emergencies, and business administration and practice management.

(b) Has received a letter of acceptance into the employment utilization phase of the Health Manpower Pilot Project No. 155 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code.

SEC. 7. Section 1927 of the Business and Professions Code is amended to read:

1927. A registered dental hygienist in alternative practice shall not do any of the following:

(a) Infer, purport, advertise, or imply that he or she is in any way able to provide dental services or make any type of dental diagnosis beyond evaluating a patient's dental hygiene status, providing a dental hygiene treatment plan, and providing the associated dental hygiene services.

(b) Hire a registered dental hygienist to provide direct patient services other than a registered dental hygienist in alternative practice.

SEC. 8. Section 1945 of the Business and Professions Code is repealed.

SEC. 9. Section 1950 of the Business and Professions Code is amended to read:

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the committee, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction occurred shall be conclusive evidence of conviction.

(b) The committee shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The committee may reprimand a licensee or order a license suspended or revoked, or placed on probation or may decline to issue a license, when any of the following occur:

(1) The time for appeal has elapsed.

(2) The judgment of conviction has been affirmed on appeal.

(3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 10. Section 1952 of the Business and Professions Code is amended to read:

1952. It is unprofessional conduct for a person licensed under this article to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(b) Use a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or injurious to himself or herself, to any person, or the public to the extent that the use impairs the licensee's ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule of this state, regulating controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022, or be convicted of more than one misdemeanor, or any felony, involving the use or consumption of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or her license.

(1) The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of a violation of this section. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(2) The committee may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 11. Section 1955 of the Business and Professions Code is amended to read:

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental or dental hygiene records that is accompanied by that patient's written authorization for release of the records to the committee, within 15 days of receiving the request and authorization, shall pay to the committee a civil or administrative penalty or fine up to a maximum of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental or dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the committee together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the committee within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil or administrative penalty or fine, payable to the committee, of up to a maximum of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the committee in obtaining the patient's authorization. The committee shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee shall pay to the committee a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the committee shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of patient records to the committee, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the committee a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the committee is guilty of a misdemeanor punishable by a fine payable to the committee not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the committee against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Public Health and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or permit.

(d) A failure or refusal to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the committee

constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil or administrative penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

(f) For the purposes of this section, a “health care facility” means a clinic or health care facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

SEC. 12. Section 1957 of the Business and Professions Code is amended to read:

1957. (a) A person whose license has been revoked or suspended, who has been placed on probation, or whose license was surrendered pursuant to a stipulated settlement as a condition to avoid a disciplinary administrative hearing, may petition the committee for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods have elapsed from the effective date of the decision ordering disciplinary action:

(1) At least three years for reinstatement of a license revoked for unprofessional conduct or surrendered pursuant to a stipulated settlement as a condition to avoid an administrative disciplinary hearing.

(2) At least two years for early termination, or modification of a condition, of a probation of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination, or modification of a condition, of a probation of less than three years.

(b) The petition shall state any fact required by the committee.

(c) The petition may be heard by the committee, or the committee may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

(d) In considering reinstatement or modification or penalty, the committee or the administrative law judge hearing the petition may consider the following:

(1) All activities of the petitioner since the disciplinary action was taken.

(2) The offense for which the petitioner was disciplined.

(3) The petitioner’s activities during the time the license or permit was in good standing.

(4) The petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.

(e) The hearing may be continued from time to time as the committee or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

(f) The committee or the administrative law judge may impose necessary terms and conditions on the licensee in reinstating a license or permit or modifying a penalty.

(g) A petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole.

(h) A petition shall not be considered while there is an accusation or petition to revoke probation pending against the person.

(i) The committee may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section. Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 13. Section 1959 of the Business and Professions Code is amended to read:

1959. A person who holds a valid, unrevoked, and unsuspended license as a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions under this article may append the letters “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.,” respectively, to his or her name.

SEC. 14. Section 1961 of the Business and Professions Code is amended to read:

1961. A person who willfully, under circumstances that cause risk of bodily harm, serious physical or mental illness, or death, practices, attempts to practice, advertises, or holds himself or herself out as practicing dental hygiene without having at the time of so doing a valid, unrevoked, and unsuspended license as provided in this article, is guilty of a crime, punishable by imprisonment in a county jail for up to one year. The remedy provided in this section shall not preclude any other remedy provided by law.

SEC. 15. Section 1962 of the Business and Professions Code is amended to read:

1962. (a) An association, partnership, corporation, or group of three or more registered dental hygienists in alternative practice engaging in practice under a name that would otherwise be in violation of Section 1960 may practice under that name if the association, partnership, corporation, or group holds an unexpired, unsuspended, and unrevoked permit issued by the committee under this section.

(b) An individual registered dental hygienist in alternative practice or a pair of registered dental hygienists in alternative practice who practice dental hygiene under a name that would otherwise violate Section 1960 may practice under that name if the licensees hold a valid permit issued by the committee under this section. The committee shall issue a written permit authorizing the holder to use a name specified in the permit in connection with the holder’s practice if the committee finds all of the following:

(1) The applicant or applicants are duly licensed registered dental hygienists in alternative practice.

(2) The place where the applicant or applicants practice is owned or leased by the applicant or applicants, and the practice conducted at the place is wholly owned and entirely controlled by the applicant or applicants and is an approved area or practice setting pursuant to Section 1926.

(3) The name under which the applicant or applicants propose to operate contains at least one of the following designations: “dental hygiene group,” “dental hygiene practice,” or “dental hygiene office,” contains the family name of one or more of the past, present, or prospective associates, partners, shareholders, or members of the group, and is in conformity with Section 651 and not in violation of subdivisions (i) and (l) of Section 1950.5.

(4) All licensed persons practicing at the location designated in the application hold valid licenses and no charges of unprofessional conduct are pending against any person practicing at that location.

(c) A permit issued under this section shall expire and become invalid unless renewed in the manner provided for in this article for the renewal of permits issued under this article.

(d) A permit issued under this section may be revoked or suspended if the committee finds that any requirement for original issuance of a permit is no longer being fulfilled by the permitholder. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(e) If charges of unprofessional conduct are filed against the holder of a permit issued under this section, or a member of an association, partnership, group, or corporation to whom a permit has been issued under this section, proceedings shall not be commenced for revocation or suspension of the permit until a final determination of the charges of unprofessional conduct, unless the charges have resulted in revocation or suspension of a license.

SEC. 16. Section 1963 of the Business and Professions Code is amended to read:

1963. The committee may file a complaint for violation of any part of this article with any court of competent jurisdiction and may, by its officers, counsel and agents, assist in presenting the law or facts at the trial. The district attorney of each county in this state shall prosecute all violations of this article in their respective counties in which the violations occur.

SEC. 17. Section 1966.1 of the Business and Professions Code is amended to read:

1966.1. (a) The committee shall establish criteria for the acceptance, denial, or termination of licensees in a diversion program. Unless ordered by the committee as a condition of a licensee’s disciplinary probation, only those licensees who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a diversion program.

(b) A licensee who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licensee under current investigation by the committee may also request entry into a diversion program by contacting the committee. The committee may refer the licensee requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licensee to enter into the diversion program, the committee may require the licensee, while under current investigation for any violations of this article or other violations, to execute a statement of understanding

that states that the licensee understands that his or her violations of this article or other statutes, that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licensee are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1951, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the committee shall close the investigation without further action if the licensee is accepted into the committee's diversion program and successfully completes the requirements of the program. If the licensee withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the committee.

(e) Neither acceptance nor participation in the diversion program shall preclude the committee from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licensee for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licensees shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licensee presents a threat to the public's health and safety shall result in the utilization by the committee of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the committee for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the committee and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the committee.

SEC. 18. Section 2313 of the Business and Professions Code is amended to read:

2313. The board shall report annually to the Legislature, no later than October 1 of each year, the following information:

(a) The total number of temporary restraining orders or interim suspension orders sought by the board to enjoin licensees pursuant to Sections 125.7, 125.8 and 2311, the circumstances in each case that prompted the board to seek that injunctive relief, and whether a restraining order or interim suspension order was actually issued.

(b) The total number and types of actions for unprofessional conduct taken by the board against licensees, the number and types of actions taken against licensees for unprofessional conduct related to prescribing drugs, narcotics, or other controlled substances, including those related to the undertreatment or undermedication of pain.

(c) Information relative to the performance of the board, including the following: number of consumer calls received; number of consumer calls

or letters designated as discipline-related complaints; number of complaint forms received; number of Section 805 and Section 805.01 reports by type; number of Section 801.01 and Section 803 reports; coroner reports received; number of convictions reported to the board; number of criminal filings reported to the division; number of complaints and referrals closed, referred out, or resolved without discipline, respectively, prior to accusation; number of accusations filed and final disposition of accusations through the board and court review, respectively; final physician discipline by category; number of citations issued with fines and without fines, and number of public reprimands issued; number of cases in process more than six months from receipt by the board of information concerning the relevant acts to the filing of an accusation; average and median time in processing complaints from original receipt of complaint by the board for all cases at each stage of discipline and court review, respectively; number of persons in diversion, and number successfully completing diversion programs and failing to do so, respectively; probation violation reports and probation revocation filings and dispositions; number of petitions for reinstatement and their dispositions; and caseloads of investigators for original cases and for probation cases, respectively.

“Action,” for purposes of this section, includes proceedings brought by, or on behalf of, the board against licensees for unprofessional conduct that have not been finally adjudicated, as well as disciplinary actions taken against licensees.

(d) The total number of reports received pursuant to Section 805 and Section 805.01 by the type of peer review body reporting and, where applicable, the type of health care facility involved and the total number and type of administrative or disciplinary actions taken by the board with respect to the reports.

(e) The number of malpractice settlements in excess of thirty thousand dollars (\$30,000) reported pursuant to Section 801.01. This information shall be grouped by specialty practice and shall include the total number of physicians and surgeons practicing in each specialty. For the purpose of this subdivision, “specialty” includes all specialties and subspecialties considered in determining the risk categories described in Section 803.1.

SEC. 19. Section 2736.5 of the Business and Professions Code is amended to read:

2736.5. (a) Any person who has served on active duty in the medical corps of any of the Armed Forces of the United States and who has successfully completed the course of instruction required to qualify him or her for rating as a medical service technician—independent duty, or other equivalent rating in his particular branch of the Armed Forces, and whose service in the Armed Forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his or her education would give reasonable assurance of competence to practice as a

registered nurse in this state, he or she shall be granted a license upon passing the standard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the Armed Forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

SEC. 20. Section 2836.2 of the Business and Professions Code is amended to read:

2836.2. Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section 2836.1 to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

SEC. 21. Section 2936 of the Business and Professions Code is amended to read:

2936. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The board shall establish as its standards of ethical conduct relating to the practice of psychology, the "Ethical Principles and Code of Conduct" published by the American Psychological Association (APA). Those standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows:

"NOTICE TO CONSUMERS: The Department of Consumer Affairs' Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address:

Board of Psychology
2005 Evergreen Street, Suite 1400
Sacramento, California 95815-3894”

SEC. 22. Section 3519 of the Business and Professions Code is amended to read:

3519. The committee shall issue under the name of the Medical Board of California a license to all physician assistant applicants who meet all of the following requirements:

- (a) Provide evidence of successful completion of an approved program.
- (b) Pass any examination required under Section 3517.
- (c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.
- (d) Pay all fees required under Section 3521.1.

SEC. 23. Section 3575 of the Business and Professions Code is amended to read:

3575. (a) For the purposes of this chapter, the following definitions shall apply:

- (1) “Board” means the Medical Board of California.
 - (2) “Polysomnography” means the treatment, management, diagnostic testing, control, education, and care of patients with sleep and wake disorders. Polysomnography shall include, but not be limited to, the process of analysis, monitoring, and recording of physiologic data during sleep and wakefulness to assist in the treatment of disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep activities. Polysomnography shall also include, but not be limited to, the therapeutic and diagnostic use of oxygen, the use of positive airway pressure including continuous positive airway pressure (CPAP) and bilevel modalities, adaptive servo-ventilation, and maintenance of nasal and oral airways that do not extend into the trachea.
 - (3) “Supervision” means that the supervising physician and surgeon shall remain available, either in person or through telephonic or electronic means, at the time that the polysomnographic services are provided.
- (b) (1) Within one year after the effective date of this chapter, the board shall promulgate regulations relative to the qualifications for the registration of individuals as certified polysomnographic technologists, polysomnographic technicians, and polysomnographic trainees. The qualifications for a certified polysomnographic technologist shall include all of the following:
- (A) He or she shall have valid, current credentials as a polysomnographic technologist issued by a national accrediting agency approved by the board.
 - (B) He or she shall have graduated from a polysomnographic educational program that has been approved by the board.
 - (C) He or she shall have passed a national certifying examination that has been approved by the board.
- (2) An applicant for registration as a certified polysomnographic technologist may satisfy the qualifications described in paragraph (1) by

submitting proof to the board that he or she has been practicing polysomnography for at least five years in a manner that is acceptable to the board. However, beginning three years after the effective date of this chapter, all individuals seeking to obtain certification as a polysomnographic technologist shall have passed a national certifying examination that has been approved by the board.

(c) In accordance with Section 144, any person seeking registration from the board as a certified polysomnographic technologist, a polysomnographic technician, or a polysomnographic trainee shall be subject to a state and federal level criminal offender record information search conducted through the Department of Justice as specified in paragraphs (1) to (5), inclusive, of this subdivision.

(1) The board shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all polysomnographic technologist, technician, or trainee certification candidates for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board.

(3) The Department of Justice shall provide state and federal responses to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for persons described in this subdivision.

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision. The individual seeking registration shall be responsible for this cost.

(d) An individual may use the title “certified polysomnographic technologist” and may engage in the practice of polysomnography only under the following circumstances:

(1) He or she is registered with the board and has successfully undergone a state and federal level criminal offender record information search pursuant to subdivision (c).

(2) He or she works under the supervision and direction of a licensed physician and surgeon.

(3) He or she meets the requirements of this chapter.

(e) Within one year after the effective date of this chapter, the board shall adopt regulations that establish the means and circumstances in which a licensed physician and surgeon may employ polysomnographic technicians and polysomnographic trainees. The board may also adopt regulations

specifying the scope of services that may be provided by a polysomnographic technician or polysomnographic trainee. Any regulation adopted pursuant to this section may specify the level of supervision that polysomnographic technicians and trainees are required to have when working under the supervision of a certified polysomnographic technologist or licensed health care professional.

(f) This section shall not apply to California licensed allied health professionals, including, but not limited to, respiratory care practitioners, working within the scope of practice of their license.

(g) Nothing in this chapter shall be interpreted to authorize a polysomnographic technologist, technician, or trainee to treat, manage, control, educate, or care for patients other than those with sleep disorders or to provide diagnostic testing for patients other than those with suspected sleep disorders.

SEC. 24. Section 4200 of the Business and Professions Code is amended to read:

4200. (a) The board may license as a pharmacist an applicant who meets all the following requirements:

(1) Is at least 18 years of age.

(2) (A) Has graduated from a college of pharmacy or department of pharmacy of a university recognized by the board; or

(B) If the applicant graduated from a foreign pharmacy school, the foreign-educated applicant has been certified by the Foreign Pharmacy Graduate Examination Committee.

(3) Has completed at least 150 semester units of collegiate study in the United States, or the equivalent thereof in a foreign country. No less than 90 of those semester units shall have been completed while in resident attendance at a school or college of pharmacy.

(4) Has earned at least a baccalaureate degree in a course of study devoted to the practice of pharmacy.

(5) Has completed 1,500 hours of pharmacy practice experience or the equivalent in accordance with Section 4209.

(6) Has passed the North American Pharmacist Licensure Examination and the California Practice Standards and Jurisprudence Examination for Pharmacists on or after January 1, 2004.

(b) Proof of the qualifications of an applicant for licensure as a pharmacist shall be made to the satisfaction of the board and shall be substantiated by affidavits or other evidence as may be required by the board.

(c) Each person, upon application for licensure as a pharmacist under this chapter, shall pay to the executive officer of the board the fees provided by this chapter. The fees shall be compensation to the board for investigation or examination of the applicant.

SEC. 25. Section 4836.1 of the Business and Professions Code is amended to read:

4836.1. (a) Notwithstanding any other provision of law, a registered veterinary technician or an unregistered assistant may administer a drug, including, but not limited to, a drug that is a controlled substance, under the

direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the board.

(b) For purposes of this section, the following definitions apply:

(1) “Controlled substance” has the same meaning as that term is defined in Section 11007 of the Health and Safety Code.

(2) “Direct supervision” has the same meaning as that term is defined in subdivision (e) of Section 2034 of Title 16 of the California Code of Regulations.

(3) “Drug” has the same meaning as that term is defined in Section 11014 of the Health and Safety Code.

(4) “Indirect supervision” has the same meaning as that term is defined in subdivision (f) of Section 2034 of Title 16 of the California Code of Regulations.

(c) This section shall remain in effect until January 1, 2013, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 26. Section 4980.36 of the Business and Professions Code is amended to read:

4980.36. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor’s or master’s degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor’s or master’s degree program that qualifies for licensure or registration shall do the following:

(1) Integrate all of the following throughout its curriculum:

(A) Marriage and family therapy principles.

(B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.

(C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.

(2) Allow for innovation and individuality in the education of marriage and family therapists.

(3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(iii) A student must be enrolled in a practicum course while counseling clients.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, and prognosis.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

(IV) Professional writing, including documentation of services, treatment plans, and progress notes.

(V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, “co-occurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 26.5. Section 4980.36 of the Business and Professions Code is amended to read:

4980.36. (a) This section shall apply to the following:

(1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.

(2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.

(3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education or accredited by either the Commission on the Accreditation of Marriage and Family Therapy Education or a regional accrediting agency recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

(c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:

- (1) Integrate all of the following throughout its curriculum:
 - (A) Marriage and family therapy principles.
 - (B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.
 - (C) An understanding of various cultures and the social and psychological implications of socioeconomic position, and an understanding of how poverty and social stress impact an individual's mental health and recovery.
- (2) Allow for innovation and individuality in the education of marriage and family therapists.
- (3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.
- (5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
- (d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:
 - (1) Both of the following:
 - (A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.
 - (B) Practicum that involves direct client contact, as follows:
 - (i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.
 - (ii) A minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.
 - (iii) A student must be enrolled in a practicum course while counseling clients, except as specified in subdivision (c) of Section 4980.42.
 - (iv) The practicum shall provide training in all of the following areas:
 - (I) Applied use of theory and psychotherapeutic techniques.
 - (II) Assessment, diagnosis, and prognosis.
 - (III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.
 - (IV) Professional writing, including documentation of services, treatment plans, and progress notes.
 - (V) How to connect people with resources that deliver the quality of services and support needed in the community.

(v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.

(vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following:

(I) Client-centered advocacy, as defined in Section 4980.03.

(II) Face-to-face experience counseling individuals, couples, families, or groups.

(2) Instruction in all of the following:

(A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

(i) The effects of developmental issues on individuals, couples, and family relationships.

(ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.

(iii) Aging and its biological, social, cognitive, and psychological aspects.

(iv) A variety of cultural understandings of human development.

(v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.

(vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.

(vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.

(C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:

(i) Child and adult abuse assessment and reporting.

(ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) Cultural factors relevant to abuse of partners and family members.

(iv) Childbirth, child rearing, parenting, and stepparenting.

(v) Marriage, divorce, and blended families.

(vi) Long-term care.

(vii) End of life and grief.

(viii) Poverty and deprivation.

(ix) Financial and social stress.

(x) Effects of trauma.

(xi) The psychological, psychotherapeutic, community, and health implications of the matters and life events described in clauses (i) to (x), inclusive.

(D) Cultural competency and sensitivity, including a familiarity with the racial, cultural, linguistic, and ethnic backgrounds of persons living in California.

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

(F) The effects of socioeconomic status on treatment and available resources.

(G) Resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.

(H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior and gender identity, and the assessment and treatment of psychosexual dysfunction.

(I) Substance use disorders, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:

(i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, “co-occurring disorders” means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.

(ii) Medical aspects of substance use disorders and co-occurring disorders.

(iii) The effects of psychoactive drug use.

(iv) Current theories of the etiology of substance abuse and addiction.

(v) The role of persons and systems that support or compound substance abuse and addiction.

(vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.

(vii) Legal aspects of substance abuse.

(viii) Populations at risk with regard to substance use disorders and co-occurring disorders.

(ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.

(x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.

(xi) The prevention of substance use disorders and addiction.

(J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

(ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.

(iii) The current legal patterns and trends in the mental health professions.

(iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

(vi) Differences in legal and ethical standards for different types of work settings.

(vii) Licensing law and licensing process.

(e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.

(f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.

SEC. 27. Section 4980.37 of the Business and Professions Code is amended to read:

4980.37. (a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low-income and multicultural mental health settings.

(g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 28. Section 4980.40.5 of the Business and Professions Code is amended to read:

4980.40.5. (a) A doctoral or master's degree in marriage, family, and child counseling, marital and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education as of June 30, 2007, shall be considered by the board to meet the requirements necessary for licensure as a marriage and family therapist and for registration as a marriage and family therapist intern provided that the degree is conferred on or before July 1, 2010.

(b) As an alternative to meeting the qualifications specified in subdivision (a) of Section 4980.40, the board shall accept as equivalent degrees those doctoral or master's degrees that otherwise meet the requirements of this chapter and are conferred by educational institutions accredited by any of the following associations:

- (1) Northwest Commission on Colleges and Universities.
- (2) Middle States Association of Colleges and Secondary Schools.
- (3) New England Association of Schools and Colleges.
- (4) North Central Association of Colleges and Secondary Schools.
- (5) Southern Association of Colleges and Schools.

SEC. 29. Section 4980.42 of the Business and Professions Code is amended to read:

4980.42. (a) Trainees performing services in any work setting specified in subdivision (d) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated

by the title “trainee.” Trainees may gain hours of experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(b) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party’s responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student’s performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant’s responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

SEC. 29.5. Section 4980.42 of the Business and Professions Code is amended to read:

4980.42. (a) Trainees performing services in any work setting specified in subdivision (d) of Section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee’s supervised course of study and that the person is designated by the title “trainee.”

(b) Trainees may gain hours of experience outside the required practicum but must be enrolled in a practicum course to counsel clients, as set forth in clause (iii) of subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36, except as provided in subdivision (c).

(c) Trainees may counsel clients while not enrolled in a practicum course if the period of lapsed enrollment is less than 90 calendar days, and if that period is immediately preceded and immediately followed by enrollment in a practicum course.

(d) All hours of experience gained pursuant to subdivisions (b) and (c) shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.

(e) On and after January 1, 1995, all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party’s responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student’s performance at the site. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant’s responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

SEC. 30. Section 4980.45 of the Business and Professions Code is amended to read:

4980.45. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or

employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In no event shall any marriage and family therapy corporation employ, at any one time, more than a total of 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 31. Section 4982.25 of the Business and Professions Code is amended to read:

4982.25. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice marriage and family therapy, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a marriage and family therapist, clinical social worker, professional clinical counselor, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee or registrant under this chapter.

SEC. 32. Section 4989.54 of the Business and Professions Code is amended to read:

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.

(d) Failure to comply with the consent provisions in Section 2290.5.

(e) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as an educational psychologist, a clinical social worker, professional clinical counselor, or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

(aa) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use his or her license.

(ab) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.

SEC. 33. Section 4990.38 of the Business and Professions Code is amended to read:

4990.38. The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by this state or another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology, professional clinical counseling, or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

SEC. 34. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the

commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(g) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(i) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(j) Intentionally or recklessly causing physical or emotional harm to any client.

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(l) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(m) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

(s) Any conduct in the supervision of any registered associate clinical social worker, intern, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(t) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(u) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(v) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(x) Failure to comply with Section 2290.5.

(y) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

SEC. 35. Section 4992.36 of the Business and Professions Code is amended to read:

4992.36. The board may deny an application, or may suspend or revoke a license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice clinical social work, marriage and family therapy, professional clinical counseling, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 36. Section 4996.13 of the Business and Professions Code is amended to read:

4996.13. Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or

that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

- (a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).
- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).
- (f) A priest, rabbi, or minister of the gospel of any religious denomination.

SEC. 37. Section 4996.24 of the Business and Professions Code is amended to read:

4996.24. (a) A licensee in private practice who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations may supervise or employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A licensed clinical social workers' corporation may employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations.

(c) In no event shall any licensed clinical social workers' corporation employ, at any one time, more than a total of 15 individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the licensed clinical social workers' corporation and shall be actively engaged in performing professional services at and for the licensed clinical social workers' corporation. Employment and supervision within the licensed clinical social workers' corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 38. Section 4999.12 of the Business and Professions Code is amended to read:

4999.12. For purposes of this chapter, the following terms have the following meanings:

- (a) "Board" means the Board of Behavioral Sciences.

(b) “Accredited” means a school, college, or university accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association.

(c) “Approved” means a school, college, or university that possessed unconditional approval by the Bureau for Private Postsecondary Education at the time of the applicant’s graduation from the school, college, or university.

(d) “Applicant” means an unlicensed person who has completed a master’s or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, and whose application for registration as an intern is pending or who has applied for examination eligibility, or an unlicensed person who has completed the requirements for licensure specified in this chapter and is no longer registered with the board as an intern.

(e) “Licensed professional clinical counselor” or “LPCC” means a person licensed under this chapter to practice professional clinical counseling, as defined in Section 4999.20.

(f) “Intern” means an unlicensed person who meets the requirements of Section 4999.42 and is registered with the board.

(g) “Clinical counselor trainee” means an unlicensed person who is currently enrolled in a master’s or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(h) “Approved supervisor” means an individual who meets the following requirements:

(1) Has documented two years of clinical experience as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has received professional training in supervision.

(3) Has not provided therapeutic services to the clinical counselor trainee or intern.

(4) Has a current and valid license that is not under suspension or probation.

(i) “Client centered advocacy” includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

(j) “Advertising” or “advertise” includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a

congregation shall not be construed as advertising within the meaning of this chapter.

(k) “Referral” means evaluating and identifying the needs of a client to determine whether it is advisable to refer the client to other specialists, informing the client of that judgment, and communicating that determination as requested or deemed appropriate to referral sources.

(l) “Research” means a systematic effort to collect, analyze, and interpret quantitative and qualitative data that describes how social characteristics, behavior, emotion, cognitions, disabilities, mental disorders, and interpersonal transactions among individuals and organizations interact.

(m) “Supervision” includes the following:

(1) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised.

(2) Reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the clinical counselor trainee.

(3) Monitoring and evaluating the ability of the intern or clinical counselor trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.

(4) Ensuring compliance with laws and regulations governing the practice of licensed professional clinical counseling.

(5) That amount of direct observation, or review of audio or videotapes of counseling or therapy, as deemed appropriate by the supervisor.

SEC. 39. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of *nolo contendere* made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to

withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee or intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telemedicine.

SEC. 39.5. Section 4999.90 of the Business and Professions Code is amended to read:

4999.90. The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any intern or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to

withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any clinical counselor trainee or intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a clinical counselor trainee or intern under one's supervision or control to perform, or permitting the clinical counselor trainee or intern to hold himself or herself out as competent to perform, professional services beyond the clinical counselor trainee's or intern's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.

SEC. 40. Section 4999.91 is added to the Business and Professions Code, to read:

4999.91. The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

(a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by this state or another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice professional clinical counseling or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

(b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice clinical social work, professional clinical counseling, marriage and family therapy, or educational psychology shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

SEC. 41. Section 4999.455 is added to the Business and Professions Code, to read:

4999.455. (a) A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A professional clinical counselor corporation may employ, at any one time, no more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12. In no event shall any professional clinical counselor corporation employ, at any one time, more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation. Employment and supervision within a professional clinical counselor corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

SEC. 42. Section 26.5 of this bill incorporates amendments to Section 4980.36 of the Business and Professions Code proposed by both this bill and Senate Bill 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4980.36 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 363, in which case Section 26 of this bill shall not become operative.

SEC. 43. Section 29.5 of this bill incorporates amendments to Section 4980.42 of the Business and Professions Code proposed by both this bill and Senate Bill 363. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4980.42 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 363, in which case Section 29 of this bill shall not become operative.

SEC. 44. Section 39.5 of this bill incorporates amendments to Section 4999.90 of the Business and Professions Code proposed by both this bill and Senate Bill 946. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 4999.90 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 946, in which case Section 39 of this bill shall not become operative.

SEC. 45. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 1.2

DATE: October 12, 2011

ACTION REQUESTED: Information Only: Federal Legislation of Interest to the Board and other interested parties.

REQUESTED BY: Richard Rice, Chairperson
Legislative Committee

BACKGROUND: Two Nursing Organizations requested information about Federal Legislation at the January 5, 2011, Legislative Committee Meeting.

NEXT STEP: None

FINANCIAL IMPLICATION, IF ANY: None

PERSON TO CONTACT: Kay Weinkam, NEC and Legislative Liaison
(916) 574-7680

Federal Legislation
October 12, 2011

Bill Number: S. 227
Title: Home Health Care Planning Improvement Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to revise conditions of and limitations on payment for home health care services. Allows payment for home health services to Medicare beneficiaries by: (1) a nurse practitioner; (2) a clinical nurse specialist working in collaboration with a physician in accordance with state law; (3) a certified nurse-midwife; or (4) a physician assistant under a physician's supervision.
Location: Senate - Committee on Finance
Sponsor: Senator Susan Collins of Maine (Republican)

Bill Number: S. 56
Title: Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to eliminate the state option to include nurse practitioners, certified nurse-midwives, and physician assistants as primary care case managers. Specifies as primary care case managers any nurse practitioner, certified nurse-midwife, or physician assistant that provides primary care case management services under a primary care case management contract. Revises the coverage of certain nurse practitioner services under the Medicaid fee-for-service program to remove the specification of certified pediatric nurse practitioner and certified family nurse practitioner in order to extend such coverage to services furnished by a nurse practitioner or clinical nurse specialist. Includes nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists in the mix of service providers which Medicaid managed care organizations are required to maintain.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 58
Related Bills: H.R. 876 authored by House Representative Lois Capps of California (Democrat)
Title: Registered Nurse Safe Staffing Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to require each Medicare participating hospital to implement a hospital-wide staffing plan for nursing services furnished in the hospital.

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Federal Legislation
October 12, 2011

Requires the plan to require that an appropriate number of registered nurses provide direct patient care in each unit and on each shift of the hospital to ensure staffing levels that: (1) address the unique characteristics of the patients and hospital units; and (2) result in the delivery of safe, quality patient care consistent with specified requirements.

Requires each participating hospital to establish a hospital nurse staffing committee which shall implement and oversee such plan.

Specifies civil monetary and other penalties for violation of the requirements of this Act.

Sets forth whistleblower protections against discrimination and retaliation involving patients or employees of the hospital for their grievances, complaints, or involvement in investigations relating to such plan.

Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 55
Title: Nursing School Clinics Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to provide for coverage of nursing school clinic services.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 53
Title: Doctor of Nursing Practice and Doctor of Pharmacy Dual Degree Program Act of 2011
Summary: Expresses the sense of the Senate that there should be established a Doctor of Nursing Practice (DNP) and Doctor of Pharmacy (PharmD) dual degree program, which would: (1) improve patient outcomes, (2) help health providers meet the unique needs of rural communities across the age continuum and in diverse settings, (3) enhance collaboration between DNPs and physicians regarding drug therapy, (4) provide for research concerning and the implementation of safer medication administration, (5) broaden the scope of practice for pharmacists through education and training in

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Federal Legislation
October 12, 2011

diagnosis and management of common diseases, (6) provide new employment opportunities, and (7) assist in filling the need for primary care providers with an expertise in geriatrics and pharmaceuticals. Calls for additional research and evaluation to be conducted to determine the extent to which graduates of such a program improve primary health care, address disparities, diversify the workforce, and increase quality of service for underserved populations.

Location: Senate - Committee on Health, Education, Labor, and Pensions
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)